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IMMIGRATION AND NATIONALITY ACT

(As Amended Through January 1, 1989)

WITH NOTES AND RELATED LAWS

PREPARED FOR FOR THE USE OF THE

COMMITTEE ON THE JUDICIARY

OF THE

HOUSE OF REPRESENTATIVES

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Immigration and Nationality Act,

As Amended through January 1, 1989*

(ACT OF JUNE 27, 1952; 66 STAT. 163; 8 U.S.C. 1101 et. seq.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, divided into titles, chapters, and sections according to the following table of contents, may be cited as the "Immigration and Nationality Act" [8 U.S.C. 1101, note].

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* Material within brackets and footnotes and matter printed in 8 point type are not contained in the Immigration and Nationality Act, though they also may be shown in title 8, United States Code. The provisions of title 8, United States Code, have *not* been codified into positive law. For a proposed codification of such title into positive law in a structure significantly different from the current law, see H.R. 3321, as introduced in the 99th Congress.

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[1] So in original. Should be "procedures".

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[2] Section repealed without corresponding change in Table of Contents.

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TITLE I—GENERAL

DEFINITIONS

SECTION 101. [8 U.S.C. 1101] (a) As used in this Act—

(1) The term "administrator" means the Assistant Secretary of State for Consular Affairs.

(2) The term "advocates" includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term "alien" means any person not a citizen or national of the United States.

(4) The term "application for admission" has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.

(5) The term "Attorney General" means the Attorney General of the United States.

(6) The term "border crossing identification card" means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations.

(7) The term "clerk of court" means a clerk of a naturalization court.

(8) The terms "Commissioner" and "Deputy Commissioner" mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term "consular officer" means any consular, diplomatic, or other officer of the United States designated under regulations prescribed under authority contained in this Act, for the purpose of issuing immigrant or nonimmigrant visas.

(10) The term "crewman" means a person serving in any capacity on board a vessel or aircraft.

(11) The term "diplomatic visa" means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term "doctrine" includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13) The term "entry" means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction

of the Attorney General that his departure to a foreign port or place or to an outlying possession was not intended or reasonably to be expected by him or his presence in a foreign port or place or in an outlying possession was not voluntary: *Provided,* That no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.

(14) The term "foreign state" includes outlying possessions of a foreign state, but self-governing dominions and territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term "immigrant" means every alien except an alien who is within one of the following classes of nonimmigrant aliens [3]—

(A)(i) [4] an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government recognized de jure by the United States and who is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) [4] upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized de jure by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C) an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758); [5]

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[3] See Appendix VIII. D., p. 386, for visa symbols applicable to specific classes of aliens.

[4] For provisions relating to change of status of 101(a)(15)(A) (i) or (ii) foreign government officials, see footnote 120, pp. 119–120. For study and report concerning the status of individuals with diplomatic immunity in the United States, see § 137 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100–204, 101 Stat. 1345).

[5] Section 11 of the Agreement (22 U.S.C. 287 note) reads as follows:

Section 11. The federal, state or local authorities of the United States shall not impose any impediments to transit to or from the headquarters district of (1) representatives of Members or officials of the United Nations, or of specialized agencies as defined in Article 57, paragraph 2, of the Charter, or the families of such representatives or officials, (2) experts performing missions for the United Nations or for such specialized agencies, (3) representatives of the press, or of radio, film or other information agencies, who have been accredited by the United Nations (or by such a specialized agency) in its discretion after consultation with the United States, (4) representatives of nongovernmental organizations recognized by the United Nations for the pur-

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(D)(i)[6] an alien crewman serving in good faith as such in any capacity required for normal operation and service on board a vessel (other than a fishing vessel having its home port or an operating base in the United States) or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(ii)[7] an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam and solely in pursuit of his calling as a crewman and to depart from Guam with the vessel on which he arrived;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which he is a national, and the spouse and children of any such alien if accompanying or following to join him: (i) solely to carry on substantial trade, principally between the United States and the foreign state of which he is a national; or (ii) solely to develop and direct the operations of an enterprise in which he has invested, or of an enterprise in which he is actively in the process of investing, a substantial amount of capital;[8]

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose

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pose of consultation under Article 71 of the Charter, or (5) other persons invited to the headquarters district by the United Nations or by such specialized agency on official business. The appropriate American authorities shall afford any necessary protection to such persons while in transit to or from the headquarters district.

[6] Subsection (d) of § 315 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3440) provides as follows:

(d) DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASES OF STRIKES.—(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act [viz, November 6, 1986], an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike.

[7] Clause (ii) was added by § 1 of Pub. L. 99-505 (Oct. 21, 1986, 100 Stat. 1806). § 2 of that Act provides as follows:

SEC. 2. TREATMENT OF DEPARTURES FROM GUAM.

In the administration of section 101(a)(15)(D)(ii) of the Immigration and Nationality Act (added by the amendment made by section 1 of this Act), an alien crewman shall be considered to have departed from Guam after leaving the territorial waters of Guam, without regard to whether the alien arrives in a foreign state before returning to Guam.

[8] For list of foreign states with which the United States has a treaty of commerce and navigation, see Appendix VIII. C., p. 383. Also, the Act of June 18, 1954 (68 Stat. 264; 8 U.S.C. 1184a), provides as follows: "That, upon a basis of reciprocity secured by agreement entered into by the President of the United States and the President of the Philippines, a national of the Philippines, and the spouse and children of any such national if accompanying or following to join him, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (66 Stat. 163), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of said Act if entering solely for the purposes specified in subsection (i) or (ii) of said section.".

of pursuing such a course of study at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;

(G)(i) [9] a designated principal resident representative of a foreign government recognized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (59 Stat. 669) **[**22 U.S.C. 288, note**]**, accredited resident members of the staff of such representatives, and members of his or their immediate family;

(ii) [9] other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization, and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;

(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien having a residence in a foreign country which he has no intention of abandoning (i) [10] who is of distinguished

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[9] For provisions relating to change of status of 101(a)(15)(G) (i) or (ii) foreign government officials, see footnote 120, pp. 119–120. Also see § 702 of the Intelligence Authorization Act for Fiscal Year 1987 (Pub. L. 99–569) respecting the policy of the United States to restrict the number of nationals of the Soviet Union admitted to the United States to serve as members of the Soviet mission to the United Nations to the number of United States nationals serving as members of the United States mission to the United Nations.

[10] § 205 of the Department of Justice Appropriation Act, 1988 (as contained in § 101(a) of Pub. L. 100–202, 101 Stat. 1329–17) and § 211 of the Department of Justice Appropriations Act, 1989 (title II of Pub. L. 100–459, 101 Stat. 2203) prohibit the implementation of a final rule to change the regulations applicable to H–1 nonimmigrants (as proposed on August 8, 1986, 51 F.R. 28576). New proposed rules were published on October 26, 1988, 53 F.R. 43217. For provision relating to entry of Canadian nonimmigrant professionals under H–1, see § 214(e), p. 71.

§ 4 of the Immigration Amendments of 1988 (Pub. L. 100–658, Nov. 15, 1988) provides as follows:

SEC. 4. EXTENSION OF H–1 STATUS FOR CERTAIN REGISTERED NURSES THROUGH DECEMBER 31, 1989.

The Attorney General shall provide for the extension through December 31, 1989, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act for an alien to

Continued

merit and ability and who is coming temporarily to the United States to perform services of an exceptional nature requiring such merit and ability, and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a public or nonprofit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency; or (ii) who is coming temporarily to the United States (a)[11] to perform agricultural labor or services, as defined by the Secretary of Labor in regulations and including agricultural labor defined in section 3121(g) of the Internal Revenue Code of 1954 and agriculture as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)), of a temporary or seasonal nature, or (b) to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training; and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him;

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative if accompanying or following to join him;

(J)[11A] an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporar-

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perform temporarily services as a registered nurse in the case of an alien who has had such status for a period of at least 5 years if—

(1) such status has not expired as of the date of the enactment of this Act [viz., November 15, 1988] but would otherwise expire during 1988 or 1989; or

(2)(A) the alien's status as such a nonimmigrant expired during the period beginning on January 1, 1987, and ending on the date of the enactment of this Act [viz., November 15, 1988], due only to the time limitation with respect to such status,

(B) the alien is present in the United States as of the date of the enactment of this Act [viz., November 15, 1988],

(C) the alien has been employed as a registered nurse in the United States since the date of expiration of such status, and

(D) in the case of an alien whose status expired during 1987, the alien's employer has filed with the Immigration and Naturalization Service, before the date of the enactment of this Act [viz., November 15, 1988], an appeal of a petition filed in connection with the alien's application for extension of such status.

[11] Subclause (a) was inserted by § 301(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3411).

[11A] The 12th proviso to § 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988, 102 Stat. 2268-37) provides as follows: "That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section".

ily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(K) an alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after entry, and the minor children of such fiancée or fiancé accompanying him or following to join him;

(L) an alien who, immediately preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(M)(i)[12] an alien having a residence in a foreign country which he has no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) in the United States particularly designated by him and approved by the Attorney General, after consultation with the Secretary of Education, which institution shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant nonacademic student and if any such institution fails to make reports promptly the approval shall be withdrawn, and (ii) the alien spouse and minor children of any such alien if accompanying him or following to join him; or

(N)(i)[13] the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or (ii) a child of such parent or of an alien accorded the status of a special immigrant under clause (ii), (iii), or (iv) of paragraph (27)(I).

(16) The term "immigrant visa" means an immigrant visa required by this Act and properly issued by a consular officer at his office outside of the United States to an eligible immigrant under the provisions of this Act.

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[12] Subparagraph (M) became effective on June 1, 1982, under § 21(b)(1) of Pub. L. 97-116, 95 Stat. 1622.

[13] Subparagraph (N) was added by § 312(b) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3435).

(17) The term "immigration laws" includes this Act and all laws, conventions, and treaties of the United States relating to the immigration, exclusion, deportation, or expulsion of aliens.

(18) The term "immigration officer" means any employee or class of employees of the Service or of the United States designated by the Attorney General, individually or by regulation, to perform the functions of an immigration officer specified by this Act or any section thereof.

(19) The term "ineligible to citizenship," when used in reference to any individual, means, notwithstanding the provisions of any treaty relating to military service, an individual who is, or was at any time, permanently debarred from becoming a citizen of the United States under section 3(a) of the Selective Training and Service Act of 1940, as amended (54 Stat. 885; 55 Stat. 844), or under section 4(a) of the Selective Service Act of 1948, as amended (62 Stat. 605; 65 Stat. 76) **[**50 U.S.C. App. 454**]**, or under any section of this Act, or any other Act, or under any law amendatory of, supplementary to, or in substitution for, any of such sections or Acts.

(20) The term "lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

(21) The term "national" means a person owing permanent allegiance to a state.

(22) The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(23) The term "naturalization" means the conferring of nationality of a state upon a person after birth, by any means whatsoever.

(24) The term "naturalization court", unless otherwise particularly described, means a court authorized by section 310(a) of title III to exercise naturalization jurisdiction.

(25) The term "noncombatant service" shall not include service in which the individual is not subject to military discipline, court martial, or does not wear the uniform of any branch of the armed forces.

(26) The term "nonimmigrant visa" means a visa properly issued to an alien as an eligible nonimmigrant by a competent officer as provided in this Act.

(27) The term "special immigrant" means—

(A) [14] an immigrant, lawfully admitted for permanent residence, who is returning from a temporary visit abroad;

(B) an immigrant who was a citizen of the United States and may, under section 324(a) or 327 of title III, apply for reacquisition of citizenship;

(C)(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been, and who seeks to enter the United States solely for the purpose of carrying on the vocation of minister of a religious denomination, and whose services are needed by such religious denomination having a bona fide organization in the United States; and (ii) the spouse or the child of any such immigrant, if accompanying or following to join him;

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[14] Private Law 98-53 (98 Stat. 3437) provides as follows:
"That an alien lawfully admitted to the United States for permanent residence shall be considered, for purposes of section 101(a)(27)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(A)), to be temporarily visiting abroad during any period (before or after the date of the enactment of this Act [viz., October 30, 1984]) in which the alien is employed by the American University of Beirut."

(D) an immigrant who is an employee, or an honorably retired former employee, of the United States Government abroad, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: *Provided,* That the principal officer of a Foreign Service establishment, in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status;

(E) [15] [16] an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3 (a)(1) of the Panama Canal Act of 1979) enters into force, who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty, and who has performed faithful service as such an employee for one year or more;

(F) [16] an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force, has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment;

(G) [16] an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of

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[15] Section 307(a) of the United States–Canada Free–Trade Agreement Implementation Act of 1988 (Pub. L. 100–449, 102 Stat. 1876, Sept. 28, 1988) provides as follows:

(a) NONIMMIGRANT TRADERS AND INVESTORS.—Upon a basis of reciprocity secured by the United States–Canada Free–Trade Agreement, a citizen of Canada, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1502.1 (United States of America), Part B—Traders and Investors, of such Agreement, but only if any such purpose shall have been specified in such Annex as of the date of entry into force of such Agreement.

For provisions of Annex 1502.1, see Appendix VI, p. 353.

[16] Subsection (c) of section 3201 of the Panama Canal Act of 1979 (Pub. L. 96–70) provides:

(c) Notwithstanding any other provision of law, not more than 15,000 individuals may be admitted to the United States as special immigrants under subparagraphs (E), (F), and (G) of section 101 (a)(27) of the Immigration and Nationality Act, as added by subsection (a) of this section, of which not more than 5,000 may be admitted in any fiscal year.

1977, who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who—

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry; or

(I)(i) [17] an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status [18] under this subparagraph no later than his twenty-fifth birthday or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988,[19] whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) applies for a visa or adjustment of status [18] under this subparagraph no later than six months after the date of such death or six months after the date of such death or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988,[19] whichever is later;

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[17] Subparagraph (I) was added by § 312(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3434), as amended by § 2(o)(1) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100-525, Oct. 24, 1988). Paragraph (2) of § 2(o) of the Immigration Technical Corrections Act of 1988 (102 Stat. 2613) provides as follows:

(2) Only for purposes of section 101(a)(27)(I) of the Immigration and Nationality Act, an alien who is or was an officer or employee of an international organization (or is the unmarried son or daughter or surviving spouse of such an officer or employee or former officer or employee) is considered to be residing and physically present in the United States during a period in which the alien is residing in the United States but is absent from the United States because of the officer's or employee's need to conduct official business on behalf of the organization or because of customary leave, but only if during the period of the absence the officer or employee continues to have a duty station in the United States and, in the case of such an unmarried son or daughter, the son or daughter is not enrolled in a school outside the United States.

[18] § 2(o)(1)(B) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100-525, Oct. 24, 1988, 102 Stat. 2613) substituted "applies for a visa or adjustment of status" for "applies for admission", effective as of November 6, 1986.

[19] The Immigration Technical Corrections Act of 1988 was enacted on October 24, 1988.

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the officer or employee's retirement from any such international organization, and (II) applies for a visa or adjustment of status [18] under this subparagraph before January 1, 1993, and no later than six months after the date of such retirement or six months after the date of the enactment of the Immigration Technical Corrections Act of 1988,[19] whichever is later; or

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.

(28) The term "organization" means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term "outlying possessions of the United States" means American Samoa and Swains Island.

(30) The term "passport" means any travel document issued by competent authority showing the bearer's origin, identity, and nationality if any, which is valid for the entry of the bearer into a foreign country.

(31) The term "permanent" means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term "profession" shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(33) The term "residence" means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.

(34) The term "Service" means the Immigration and Naturalization Service of the Department of Justice.

(35) The term "spouse", "wife", or "husband" does not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in

the presence of each other, unless the marriage shall have been consummated.

(36) [20] The term "State" includes (except as used in section 310(a) of title III) the District of Columbia, Puerto Rico, Guam, and the Virgin Islands of the United States.

(37) The term "totalitarian party" means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms "totalitarian dictatorship" and "totalitarianism" mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistinguishable unit, and (B) the forcible suppression of opposition to such party.

(38) [20] The term "United States", except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the Virgin Islands of the United States.

(39) The term "unmarried", when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term "world communism" means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term "graduates of a medical school" means aliens who have graduated from a medical school or who have qualified to practice medicine in a foreign state, other than such aliens who are of national or international renown in the field of medicine.

(42) The term "refugee" means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such circumstances as the President after appropriate consultation (as defined in section 207(e) of this Act) may specify, any person who is within the country of such person's nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term "refugee" does not include any person who ordered, incited, assisted, or otherwise participated in the persecution of any

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[20] Section 506(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, see pp. 340–341, deems the Northern Mariana Islands a part of the United States and a State for purposes of immediate relative status determinations and judicial naturalization, effective upon the establishment of the Commonwealth of the Northern Mariana Islands.

person on account of race, religion, nationality, membership in a particular social group, or political opinion.

(43) The term "aggravated felony" means murder, any drug trafficking crime as defined in section 924(c)(2) of title 18, United States Code, or any illicit trafficking in any firearms or destructive devices as defined in section 921 of such title, or any attempt or conspiracy to commit any such act, committed within the United States.[21]

(b) As used in titles I and II—

(1) The term "child" means an unmarried person under twenty-one years of age who is—

(A) a legitimate child;

(B) a stepchild, whether or not born out of wedlock, provided the child had not reached the age of eighteen years at the time the marriage creating the status of stepchild occurred;

(C) a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in or outside the United States, if such legitimation takes place before the child reaches the age of eighteen years and the child is in the legal custody of the legitimating parent or parents at the time of such legitimation;

(D) an illegitimate child, by, through whom, or on whose behalf a status, privilege, or benefit is sought by virtue of the relationship of the child to its natural mother or to its natural father if the father has or had a bona fide parent-child relationship with the person;

(E) a child adopted while under the age of sixteen [22] years if the child has [23] been in the legal custody of, and has resided with, the adopting parent or parents for at least two years: *Provided,* That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act; or

(F) a child, under the age of sixteen [22] at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 201(b), who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence: *Provided,* That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: *Provided further,* That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

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[21] Paragraph (43) was added by § 7342 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988).

[22] § 2(b) of Pub. L. 97-116 substituted 16 for 14, effective Dec. 29, 1981.

[23] § 2 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3655) omitted the requirement that the 2-year period of legal custody and residence with adoptive parents be "after" adoption, effective under § 23(a) of such Act (as added by § 8(r) of the Immigration Technical Corrections Act of 1988, 102 Stat. 2618) for visas issued, and admissions occurring, on or after November 14, 1986.

(2) The term "parent", "father", or "mother" means a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in (1) above,[24] except that, for purposes of paragraph (1)(F) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term "parent" does not include the natural father or the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.

(3) The term "person" means an individual or an organization.

(4) The term "special inquiry officer" means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this Act to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this Act, as the Attorney General shall prescribe.

(5) The term "adjacent islands" includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(c) As used in title III—

(1) The term "child" means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child's residence or domicile, or under the law of the father's residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 320, 321, 322, and 323 [25] of title III, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of sixteen years, and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.[26]

(2) The terms "parent", "father", and "mother" include in the case of a posthumous child a deceased parent, father, and mother.

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[24] The language following "above" was inserted by § 210(a) of the Department of Justice Appropriations Act, 1989 (in Pub. L. 100-459, Oct. 1, 1988, 102 Stat. 2203). § 210(b) of such Act provides as follows:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 315 of the Immigration Reform and Control Act of 1988 and shall expire on October 1, 1989.

[25] Section 323 (8 U.S.C. 1434) was repealed by § 7 of Pub. L. 95-417, Oct. 5, 1978, 92 Stat. 918.

[26] The striking of paragraph (1) by § 3 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, 100 Stat. 3655) was vitiated by § 8(b) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2617).

[Subsection (d), which defined for purposes of chapter 3 of title III the terms "veteran", "Spanish-American War", "World War I", "World War II", and "Korean hostilities", was stricken by § 9(a)(3) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, Oct. 24, 1988, 102 Stat. 2619).]

(e) For the purpose of this Act—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall constitute the advocating of such doctrine; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

(2) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(3) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this Act—

No person shall be regarded as, or found to be, a person of good moral character who, during the period for which good moral character is required to be established, is, or was—

(1) a habitual drunkard;

[(2) stricken by § 2(c)(1) of Pub. L. 97-116]

(3) a member of one or more of the classes of persons, whether excludable or not, described in paragraphs (11), (12), and (31) of section 212(a) of this Act; or paragraphs (9) and (10) of section 212(a) and paragraph (23) of such section (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana); if the offense described therein, for which such person was convicted or of which he admits the commission, was committed during such period;

(4) one whose income is derived principally from illegal gambling activities;

(5) one who has been convicted of two or more gambling offenses committed during such period;

(6) one who has given false testimony for the purpose of obtaining any benefits under this Act;

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of the crime of murder.

The fact that any person is not within any of the foregoing classes shall not preclude a finding that for other reasons such person is or was not of good moral character.

(g) For the purposes of this Act any alien ordered deported (whether before or after the enactment of this Act) who has left the

United States, shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed or of the place to which he departed.

APPLICABILITY OF TITLE II TO CERTAIN NONIMMIGRANTS [27]

SEC. 102. [8 U.S.C. 1102] Except as otherwise provided in this Act, for so long as they continue in the nonimmigrant classes enumerated in this section, the provisions of this Act relating to ineligibility to receive visas and the exclusion or deportation of aliens shall not be construed to apply to nonimmigrants—

(1) within the class described in paragraph (15)(A)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(A)(i), and, under such rules and regulations as the President may deem to be necessary, the provisions of paragraph (27) of section 212(a);

(2) within the class described in paragraph (15)(G)(i) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph (15)(G)(i), and the provisions of paragraph (27) of section 212(a); and

(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 101(a), except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of paragraphs (27) and (29) of section 212(a).

POWERS AND DUTIES OF THE ATTORNEY GENERAL AND THE COMMISSIONER

SEC. 103. [8 U.S.C. 1103] (a) The Attorney General shall be charged with the administration and enforcement of this Act and all other laws relating to the immigration and naturalization of aliens, except insofar as this Act or such laws relate to the powers, functions, and duties conferred upon the President, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers: *Provided, however,* That determination and ruling by the Attorney General with respect to all questions of law shall be controlling. He shall have control, direction, and supervision of all employees and of all the files and records of the Service. He shall establish such regulations; prescribe such forms of bond, reports, entries, and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out his authority under the provisions of this Act.[28] He may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon any other employee of the Service. He shall have the power and duty to control and guard the boundaries and borders of the United States against the illegal entry of aliens and shall, in his discretion, appoint for that purpose such number of employees of the Service as to him shall appear necessary and proper. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the Department or other independent establishment under whose jurisdiction the employee is serving, any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Service. He may, with the concurrence of the Secretary of State, establish offices of the Service in foreign countries; and, after consultation with the Secretary of State, he may, whenever in his judgment such action may be necessary to accomplish the purposes of this Act, detail employees of the Service for duty in foreign countries.

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[27] Section 7(a) of the International Organizations Immunities Act (22 U.S.C. 288d) provides officers, employees, and their families of international organizations with the same privileges, exemptions, and immunities concerning entry and departure and alien registration and fingerprinting as those provided to officers and employees of foreign governments.

(b) The Commissioner shall be a citizen of the United States and shall be appointed by the President, by and with the advice and consent of the Senate.[29] He shall be charged with any and all responsibilities and authority in the administration of the Service and of this Act which are conferred upon the Attorney General as may be delegated to him by the Attorney General or which may be prescribed by the Attorney General.

POWERS AND DUTIES OF THE SECRETARY OF STATE; BUREAU OF CONSULAR AFFAIRS

SEC. 104. [8 U.S.C. 1104] (a) The Secretary of State shall be charged with the administration and the enforcement of the provisions of this Act and all other immigration and nationality laws relating to (1) the powers, duties and functions of diplomatic and consular officers of the United States, except those powers, duties and functions conferred upon the consular officers relating to the granting or refusal of visas; (2) the powers, duties and functions of the Bureau of Consular Affairs; and (3) the determination of nationality of a person not in the United States. He shall establish such regulations; prescribe such forms of reports, entries and other papers; issue such instructions; and perform such other acts as he deems necessary for carrying out such provisions. He is authorized to confer or impose upon any employee of the United States, with the consent of the head of the department or independent establishment under whose jurisdiction the employee is serving, any of the powers, functions, or duties conferred or imposed by this Act or regulations issued thereunder upon officers or employees of the Department of State or of the American Foreign Service.

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[28] The Attorney General is permitted to have up to 5,000 copies printed of the annual report of the Immigration and Naturalization Service, 44 U.S.C. 1322.

[29] The compensation of the Commissioner of the Immigration and Naturalization Service is fixed at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) There is hereby established in the Department of State a Bureau of Consular Affairs, to be headed by an Assistant Secretary of State for Consular Affairs. The Assistant Secretary of State for Consular Affairs shall be a citizen of the United States, qualified by experience, and shall maintain close liaison with the appropriate committees of Congress in order that they may be advised regarding the administration of this Act by consular officers. He shall be charged with any and all responsibility and authority in the administration of the Bureau and of this Act which are conferred on the Secretary of State as may be delegated to him by the Secretary of State or which may be prescribed by the Secretary of State. He shall also perform such other duties as the Secretary of State may prescribe.

(c) Within the Bureau there shall be a Passport Office, a Visa Office, and such other offices as the Secretary of State may deem to be appropriate, each office to be headed by a director. The Directors of the Passport Office and the Visa Office shall be experienced in the administration of the nationality and immigration laws.

(d) The functions heretofore performed by the Passport Division and the Visa Division of the Department of State shall hereafter be performed by the Passport Office and the Visa Office, respectively, of the Bureau of Consular Affairs.

(e) There shall be a General Counsel of the Visa Office, who shall be appointed by the Secretary of State and who shall serve under the general direction of the Legal Adviser of the Department of State. The General Counsel shall have authority to maintain liaison with the appropriate officers of the Service with a view to securing uniform interpretations of the provisions of this Act.

LIAISON WITH INTERNAL SECURITY OFFICERS

SEC. 105. [8 U.S.C. 1105] The Commissioner and the Assistant Secretary of State for Consular Affairs shall have authority to maintain direct and continuous liaison with the Directors of the Federal Bureau of Investigation and the Central Intelligence Agency and with other internal security officers of the Government for the purpose of obtaining and exchanging information for use in enforcing the provisions of this Act in the interest of the internal security of the United States. The Commissioner and the Assistant Secretary of State for Consular Affairs shall maintain direct and continuous liaison with each other with a view to a coordinated, uniform, and efficient administration of this Act, and all other immigration and nationality laws.

JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION

SEC. 106. [8 U.S.C. 1105a] (a) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation heretofore or hereafter made against aliens within the United States pursuant to administrative proceedings under section 242(b) of this Act or comparable provisions of any prior Act, except that—

(1) a petition for review may be filed not later than 6 months after the date of the issuance of the final deportation order,

or,[30] in the case of an alien convicted of an aggravated felony, not later than 60 days after the issuance of such order;

(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit;

(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;

(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of title 28, United States Code. Any such petitioner shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise;

(6) if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 242 of this Act only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact as to the alien's nationality is presented, the court shall accord him a hearing de novo on the nationality claim and determine that issue as if proceedings had been initiated

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[30] Paragraph (1) was amended by § 7347(b) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4472), to require petitions for judicial review to be filed within 60 days in the case of aliens convicted of an aggravated felony, applicable in the case of any alien convicted of an aggravated felony on or after November 18, 1988.

under the provisions of section 2201 of title 28, United States Code. Any such alien shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise. If no such hearing de novo as to nationality is conducted, the determination shall be made solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial and probative evidence on the record considered as a whole, shall be conclusive. If the deportation order is held invalid, the court shall dismiss the indictment and the United States shall have the right to appeal to the court of appeals within thirty days. The procedure on such appeals shall be as provided in the Federal rules of criminal procedure. No petition for review under this section may be filed by any alien during the pendency of a criminal proceeding against such alien for violation of subsection (d) or (e) of section 242 of this Act;

(7) nothing in this section shall be construed to require the Attorney General to defer deportation of an alien after the issuance of a deportation order because of the right of judicial review of the order granted by this section, or to relieve any alien from compliance with subsections (d) and (e) of section 242 of this Act. Nothing contained in this section shall be construed to preclude the Attorney General from detaining or continuing to detain an alien or from taking him into custody pursuant to subsection (c) of section 242 of this Act at any time after the issuance of a deportation order;

(8) it shall not be necessary to print the record or any part thereof, or the briefs, and the court shall review the proceedings on a typewritten record and on typewritten briefs; and

(9) any alien held in custody pursuant to an order of deportation may obtain judicial review thereof by habeas corpus proceedings.

(b) Notwithstanding the provisions of any other law, any alien against whom a final order of exclusion has been made heretofore or hereafter under the provisions of section 236 of this Act or comparable provisions of any prior Act may obtain judicial review of such order by habeas corpus proceedings and not otherwise.

(c) An order of deportation or of exclusion shall not be reviewed by any court if the alien has not exhausted the administrative remedies available to him as of right under the immigration laws and regulations or if he has departed from the United States after the issuance of the order. Every petition for review or for habeas corpus shall state whether the validity of the order has been upheld in any prior judicial proceeding, and, if so, the nature and date thereof, and the court in which such proceeding took place. No petition for review or for habeas corpus shall be entertained if the validity of the order has been previously determined in any civil or criminal proceeding, unless the petition presents grounds which the court finds could not have been presented in such prior proceeding, or the court finds that the remedy provided by such prior proceeding was inadequate or ineffective to test the validity of the order.

TITLE II—IMMIGRATION

CHAPTER 1—SELECTION SYSTEM

NUMERICAL LIMITATIONS [31]

SEC. 201. [8 U.S.C. 1151] (a) Exclusive of special immigrants defined in section 101(a)(27), immediate relatives specified in subsection (b) of this section, and aliens who are admitted or granted asylum under section 207 or 208, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-two thousand and shall not in any fiscal year exceed two hundred and seventy thousand: *Provided,*[32] That to the extent that in a particular fiscal year the number of aliens who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence, and who are subject to the numerical limitations of this section, together with the aliens who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981,[31] exceed the annual numerical limitation in effect pursuant to this section for such year, the Secretary of State shall reduce to such extent the annual numerical limitation in effect pursuant to this section for the following fiscal year.

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[31] § 19 of The Immigration and Nationality Amendments Act of 1981 (Pub. L. 97-116, Dec. 29, 1981, 95 Stat. 1621) provides as follows:

SEC. 19. The numerical limitations contained in sections 201 and 202 of the Immigration and Nationality Act shall not apply to any alien who is present in the United States and who, on or before June 1, 1978—

(1) qualified as a nonpreference immigrant under section 203(a)(8) of such Act (as in effect on June 1, 1978);

(2) was determined to be exempt from the labor certification requirement of section 212(a)(14) of such Act because the alien had actually invested, before such date, capital in an enterprise in the United States of which the alien became a principal manager and which employed a person or persons (other than the spouse or children of the alien) who are citizens of the United States or aliens lawfully admitted for permanent residence; and

(3) applied for adjustment of status to that of an alien lawfully admitted for permanent residence.

§ 2(c)(1) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Pub. L. 97-271, Sept. 30, 1982, 96 Stat. 1158) provides as follows:

(c)(1) The numerical limitations described in sections 201(a) and 202 of the Act shall not apply to an alien's adjustment of status under this section. Such adjustment of status shall not result in any reduction in the number of aliens who may acquire the status of an alien lawfully admitted to the United States for permanent residence under the Act.

Subsection (e) of § 202 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3405) provides as follows:

(e) NO OFFSET IN NUMBER OR VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

Subsection (c) of 203 of that Act (100 Stat. 3405) provides as follows:

(c) CLARIFICATION.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

See also (1) §§ 210(c)(1) and 245A(d)(1) for waiver of numerical limitations of §§ 201 & 202 for aliens under those sections; (2) § 314 of the Immigration Reform and Control Act of 1986, in Appendix II. A. 1., p. 266; (3) § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, in Appendix II. C., p. 281; and (4) § 3 of the Immigration Amendments of 1988 (Pub. L. 100-658, Nov. 15, 1988, 102 Stat. 3908), in Appendix II. E., p. 288.

[32] Provisos inserted by § 20 of Pub. L. 97-116 (95 Stat. 1621).

(b) The "immediate relatives" referred to in subsection (a) of this section shall mean the children, spouses, and parents of a citizen of the United States: *Provided,* That in the case of parents, such citizen must be at least twenty-one years of age. The immediate relatives specified in this subsection who are otherwise qualified for admission as immigrants shall be admitted as such, without regard to the numerical limitations in this Act.

NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE [31]

SEC. 202. [8 U.S.C. 1152] (a) No person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of his race, sex, nationality, place of birth, or place of residence, except as specifically provided in section 101(a)(27), section 201(b), and section 203: *Provided,* That the total number of immigrant visas made available to natives of any single foreign state under paragraphs (1) through (7) of section 203(a) shall not exceed 20,000 in any fiscal year: *And provided further,*[32] That to the extent that in a particular fiscal year the number of such natives who are issued immigrant visas or who may otherwise acquire the status of aliens lawfully admitted for permanent residence and who are subject to the numerical limitation of this section, together with the aliens from the same foreign state who adjust their status to aliens lawfully admitted for permanent residence pursuant to subparagraph (H) of section 101(a)(27) or section 19 of the Immigration and Nationality Amendments Act of 1981, [31] exceed the numerical limitation in effect for such year pursuant to this section, the Secretary of State shall reduce to such extent the numerical limitation in effect for the natives of the same foreign state pursuant to this section for the following fiscal year.

(b) Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of the numerical limitation set forth in the proviso to subsection (a) of this section when approved by the Secretary of State.[33] All other inhabited lands shall be attributed to a foreign state specified by the Secretary of State. For the purposes of this Act the foreign state to which an immigrant is chargeable shall be determined by birth within such foreign state except that (1) an alien child, when accompanied by or following to join his alien parent or parents, may be charged to the foreign state of either parent if such parent has received or would be qualified for an immigrant visa, if necessary to prevent the separation of the child from the parent or parents, and if immigration charged to the foreign state to which such parent has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (2) if an alien is chargeable to a different foreign state from that of his spouse, the foreign state to which such alien is chargeable may, if necessary to prevent the separation of husband and wife, be determined by the foreign state of the spouse he is accompanying or following to join, if such spouse has received or would be qualified for an immigrant visa and if immigration charged to the foreign state to which such spouse has been or would be chargeable has not reached the numerical limitation set forth in the proviso to subsection (a) of this section for that fiscal year; (3) an alien born in the United States shall be considered as having been born in the country of which he is a citizen or subject, or, if he is not a citizen or subject of any country, in the last foreign country in which he had his residence as determined by the consular officer; and (4) an alien born within any foreign state in which neither of his parents was born and in which neither of his parents had a residence at the time of such alien's birth may be charged to the foreign state of either parent.

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[33] § 714 of the International Security and Development Cooperation Act of 1981 (Pub. L. 97-113) provides as follows:

IMMIGRANT VISAS FOR TAIWAN

SEC. 714. The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted with respect to Taiwan (China).

On Apr. 30, 1979, the Department of State made a final ruling whereby 22 CFR Part 42 was amended effective Apr. 23, 1979, to provide that aliens in Taiwan applying for immigrant visas shall be required to appear personally before a designated officer of the American Institute in Taiwan in connection with the execution of his immigrant visa application. This ruling, which was made pursuant to the authority contained in section 104 of the Immigration and Nationality Act, can be found at 44 F.R. 28659, May 16, 1979.

(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizen, as defined in section 201(b), shall be chargeable for the purpose of the limitation set forth in subsection (a), to the foreign state, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed 5,000 [34] in any one fiscal year.

(d) In the case of any change in the territorial limits of foreign states, the Secretary of State shall, upon recognition of such change, issue appropriate instructions to all diplomatic and consular offices.

(e) Whenever the maximum number of visas have been made available under this section to natives of any single foreign state as defined in subsection (b) of this section or any dependent area as defined in subsection (c) of this section in any fiscal year, in the next following fiscal year a number of visas, not to exceed 20,000, in the case of a foreign state or 5,000 in the case of a dependent area, shall be made available and allocated as follows:

(1) Visas shall first be made available, in a number not to exceed 20 per centum of the number specified in this subsection, to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 26 per centum of the number specified in this subsection, plus any visas not required for the classes specified in

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[34] § 311(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3434) increased the colonial quota from 600 to 5,000, effective with fiscal year 1988.

paragraph (1), to qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants who are members of the professions,[35] or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in this subsection, plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) [35] Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in this subsection, to qualified immigrants capable of performing specified skilled or unskilled labor, not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Visas so allocated but not required for the classes specified in paragraphs (1) through (6) shall be made available to other qualified immigrants strictly in the chronological order in which they qualify.

ALLOCATION OF IMMIGRANT VISAS

SEC. 203. [8 U.S.C. 1153] (a) Aliens who are subject to the numerical limitations specified in section 201(a) shall be allotted visas as follows:

(1) Visas shall be first made available, in a number not to exceed 20 per centum of the number specified in section 201(a), to qualified immigrants who are the unmarried sons or daughters of citizens of the United States.

(2) Visas shall next be made available, in a number not to exceed 26 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are the spouses, unmarried sons or un-

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[35] Section 2(c) of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484, Oct. 12, 1976, 90 Stat. 2243), provides as follows:

(c) The Congress further finds and declares that there is no longer an insufficient number of physicians and surgeons in the United States such that there is no further need for affording preference to alien physicians and surgeons in admission to the United States under the Immigration and Nationality Act.

married daughters of an alien lawfully admitted for permanent residence.

(3) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), to qualified immigrants who are members of the professions,[35] or who because of their exceptional ability in the sciences or the arts will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the professions, sciences, or arts are sought by an employer in the United States.

(4) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraphs (1) through (3), to qualified immigrants who are the married sons or the married daughters of citizens of the United States.

(5) Visas shall next be made available, in a number not to exceed 24 per centum of the number specified in section 201(a), plus any visas not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are the brothers or sisters of citizens of the United States, provided such citizens are at least twenty-one years of age.

(6) Visas shall next be made available, in a number not to exceed 10 per centum of the number specified in section 201(a), to qualified immigrants who are capable of performing specified skilled or unskilled labor,[35] not of a temporary or seasonal nature, for which a shortage of employable and willing persons exists in the United States.

(7) Visas authorized in any fiscal year, less those required for issuance to the classes specified in paragraphs (1) through (6), shall be made available to other qualified immigrants strictly in the chronological order in which they qualify. Waiting lists of applicants shall be maintained in accordance with regulations prescribed by the Secretary of State. No immigrant visa shall be issued to a nonpreference immigrant under this paragraph, or to an immigrant with a preference under paragraph (3) or (6) of this subsection, until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided,* That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

(8) A spouse or child as defined in section 101(b)(1) (A), (B), (C), (D), or (E) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under paragraphs (1) through (7), be entitled to the same status, and the same order of consideration provided in subsection (b), if accompanying, or following to join, his spouse or parent.

(b) In considering applications for immigrant visas under subsection (a) consideration shall be given to applicants in the order in which the classes of which they are members are listed in subsection (a).

(c) Immigrant visas issued pursuant to paragraphs (1) through (6) of subsection (a) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General as provided in section 204.

(d) Every immigrant shall be presumed to be a nonpreference immigrant until he establishes to the satisfaction of the consular officer and the immigration officer that he is entitled to a preference status under paragraphs (1) through (6) of subsection (a), or to a special immigrant status under section 101(a)(27), or that he is an immediate relative of a United States citizen as specified in section 201(b). In the case of any alien claiming in his application for an immigrant visa to be an immediate relative of a United States citizen as specified in section 201(b) or to be entitled to preference immigrant status under paragraphs (1) through (6) of subsection (a), the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

(e) For the purposes of carrying out his responsibilities in the orderly administration of this section, the Secretary of State is authorized to make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories of subsection (a), and to rely upon such estimates in authorizing the issuance of such visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to him of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within two years following notification of the availability of such visa that such failure to apply was due to circumstances beyond his control. Upon such termination the approval of any petition approved pursuant to section 204(b) shall be automatically revoked.

PROCEDURE FOR GRANTING IMMIGRANT STATUS

SEC. 204. [8 U.S.C. 1154] (a)(1) Any citizen of the United States claiming that an alien is entitled to a preference status by reason of a relationship described in paragraph (1), (4), or (5) of section 203(a), or to an immediate relative status under section 201(b), or any alien lawfully admitted for permanent residence claiming that an alien is entitled to a preference status by reason of the relationship described in section 203(a)(2), or any alien desiring to be classified as a preference immigrant under section 203(a)(3) (or any person on behalf of such an alien), or any person desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 203(a)(6), may file a petition with the Attorney General for such classification. The petition shall be in such form as the Attorney General may by regulations prescribe and shall contain such information and be supported by such documentary evidence as the Attorney General may require. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer or an immigration officer.

(2)(A) [36] The Attorney General may not approve a spousal second preference petition filed by an alien who, by virtue of a prior marriage, has been accorded the status of an alien lawfully admitted for permanent residence as the spouse of a citizen of the United States or as the spouse of an alien lawfully admitted for permanent residence, unless—

(i) a period of 5 years has elapsed after the date the alien acquired the status of an alien lawfully admitted for permanent residence, or

(ii) the alien establishes to the satisfaction of the Attorney General by clear and convincing evidence that the prior marriage (on the basis of which the alien obtained the status of an alien lawfully admitted for permanent residence) was not entered into for the purpose of evading any provision of the immigration laws.

In this subparagraph, the term "spousal second preference petition" refers to a petition, seeking preference status under section 203(a)(2), for an alien as a spouse of an alien lawfully admitted for permanent residence.

(B) Subparagraph (A) shall not apply to a petition filled by an alien whose prior marriage was terminated by the death of his or her spouse.

(b) After an investigation of the facts in each case, and after consultation with the Secretary of Labor with respect to petitions to accord a status under section 203(a) (3) or (6), the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is made is an immediate relative specified in section 201(b) or is eligible for a preference status under section 203(a), approve the petition and forward one copy thereof to the Department of State. The Secretary of State shall then authorize the consular officer concerned to grant the preference status.

(c) Notwithstanding the provisions of subsection (b) no petition shall be approved if (1) the alien has previously been accorded, or has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws or (2) [37] the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

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[36] Paragraph (2) was added by § 2(c)(2) of Pub. L. 99-639, (Nov. 10, 1986, 100 Stat. 3541).

[37] Clause (2) was inserted by § 4(a)(3) of Pub. L. 99-639 (100 Stat. 3543), effective for petitions filed on or after Nov. 10, 1986.

(d) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

(e) Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to enter the United States as a preference immigrant under section 203(a) or as an immediate relative under section 201(b) if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

(f) The provisions of this section shall be applicable to qualified immigrants specified in paragraphs (1) through (6) of section 202(e).

(g)(1) [38] Any alien claiming to be an alien described in paragraph (2)(A) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 201(b), 203(a)(1), or 203(a)(4), as appropriate. After an investigation of the facts of each case the Attorney General shall, if the conditions described in paragraph (2) are met, approve the petition and forward one copy to the Secretary of State.

(2) The Attorney General may approve a petition for an alien under paragraph (1) if—

(A) he has reason to believe that the alien (i) was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950 and before the date of the enactment of this subsection, and (ii) was fathered by a United States citizen;

(B) he has received an acceptable guarantee of legal custody and financial responsibility described in paragraph (4); and

(C) in the case of an alien under eighteen years of age, (i) the alien's placement with a sponsor in the United States has been arranged by an appropriate public, private, or State child welfare agency licensed in the United States and actively involved in the intercountry placement of children and (ii) the alien's mother or guardian has in writing irrevocably released the alien for emigration.

(3) In considering petitions filed under paragraph (1), the Attorney General shall—

(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determinations described in subparagraphs (A) and (C)(ii) of paragraph (2); and

(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

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[38] Subsection (g) was inserted by Pub. L. 97-359, Oct. 22, 1982.

(4)(A) A guarantee of legal custody and financial responsibility for an alien described in paragraph (2) must—

(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the "sponsor") who is twenty-one years of age or older, is of good moral character, and is a citizen of the United States or alien lawfully admitted for permanent residence, and

(ii) provide that the sponsor agrees (I) in the case of an alien under eighteen years of age, to assume legal custody for the alien after the alien's departure to the United States and until the alien becomes eighteen years of age, in accordance with the laws of the State where the alien and the sponsor will reside, and (II) to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 673(2) of the Omnibus Budget Reconciliation Act of 1981 and as revised by the Secretary of Health and Human Services under section 652 of such Act) for a family of the same size as the size of the alien's family.

(B) A guarantee of legal custody and financial responsibility described in subparagraph (A) may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor or his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title 11, United States Code.

(h) [39] Notwithstanding subsection (a), a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period described in section 245(e)(2), until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.

REVOCATION OF APPROVAL OF PETITIONS

SEC. 205. [8 U.S.C. 1155] The Attorney General may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 204. Such revocation shall be effective as of the date of approval of any such petition. In no case, however, shall such revocation have effect unless there is mailed to the petitioner's last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States. If notice of revocation is not so given, and the beneficiary applies for admission to the United States, his admissibility shall be determined in the manner provided for by sections 235 and 236.

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[39] Subsection (h) was added by § 5(b) of Pub. L. 99-639 (100 Stat. 3543), effective for marriages entered into on or after Nov. 10, 1986.

UNUSED IMMIGRANT VISAS

SEC. 206. [8 U.S.C. 1156] If an immigrant having an immigrant visa is excluded from admission to the United States and deported, or does not apply for admission before the expiration of the validity of his visa, or if an alien having an immigrant visa issued to him as a preference immigrant is found not to be a preference immigrant, an immigrant visa or a preference immigrant visa, as the case may be, may be issued in lieu thereof to another qualified alien.

ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES

SEC. 207. [8 U.S.C. 1157] (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section in fiscal year 1980, 1981, or 1982, may not exceed fifty thousand unless the President determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest.

(2) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year after fiscal year 1982 shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

(3) Admissions under this subsection shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after appropriate consultation.

(b) If the President determines, after appropriate consultation, that (1) an unforeseen emergency refugee situation exists, (2) the admission of certain refugees in response to the emergency refugee situation is justified by grave humanitarian concerns or is otherwise in the national interest, and (3) the admission to the United States of these refugees cannot be accomplished under subsection (a), the President may fix a number of refugees to be admitted to the United States during the succeeding period (not to exceed twelve months) in response to the emergency refugee situation and such admissions shall be allocated among refugees of special humanitarian concern to the United States in accordance with a determination made by the President after the appropriate consultation provided under this subsection.

(c)(1) Subject to the numerical limitations established pursuant to subsections (a) and (b), the Attorney General may, in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe, admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act.[40]

(2) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of any refugee who qualifies for admission under paragraph (1) shall, if not otherwise entitled to admission under paragraph (1) and if not a person described in the second sentence of section 101(a)(42), be entitled to the same admission status as such refugee if accompanying, or following to join, such refugee and if the spouse or child is admissible (except as otherwise provided under paragraph (3)) as an immigrant under this Act. Upon the spouse's or child's admission to the United States, such admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking admission to the United States under this subsection, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation. The Attorney General shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

(4) The refugee status of any alien (and of the spouse or child of the alien) may be terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe if the Attorney General determines that the alien was not in fact a refugee within the meaning of section 101(a)(42) at the time of the alien's admission.

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[40] Subsections (a) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic], contained in Pub. L. 100-202, 101 Stat. 1329-39, Dec. 22, 1987, and subsections (a) and (c) of § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, 101 Stat. 1401, Dec. 22, 1987) provide as follows:

(a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act [viz., December 22, 1987], consular officers ["officer" in Pub. L. 100-202] of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

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(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

(d)(1) Before the start of each fiscal year the President shall report to the Committee on the Judiciary of the House of Representatives and of the Senate regarding the foreseeable number of refugees who will be in need of resettlement during the fiscal year and the anticipated allocation of refugee admissions during the fiscal year. The President shall provide for periodic discussions between designated representatives of the President and members of such committees regarding changes in the worldwide refugee situation, the progress of refugee admissions, and the possible need for adjustments in the allocation of admissions among refugees.

(2) As soon as possible after representatives of the President initiate appropriate consultation with respect to the number of refugee admissions under subsection (a) or with respect to the admission of refugees in response to an emergency refugee situation under subsection (b), the Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of such consultation.

(3)(A) After the President initiates appropriate consultation prior to making a determination under subsection (a), a hearing to review the proposed determination shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

(B) After the President initiates appropriate consultation prior to making a determination, under subsection (b), that the number of refugee admissions should be increased because of an unforeseen emergency refugee situation, to the extent that time and the nature of the emergency refugee situation permit, a hearing to review the proposal to increase refugee admissions shall be held unless public disclosure of the details of the proposal would jeopardize the lives or safety of individuals.

(e) For purposes of this section, the term "appropriate consultation" means, with respect to the admission of refugees and allocation of refugee admissions, discussions in person by designated Cabinet-level representatives of the President with members of the Committees on the Judiciary of the Senate and of the House of Representatives to review the refugee situation or emergency refugee situation, to project the extent of possible participation of the United States therein, to discuss the reasons for believing that the proposed admission of refugees is justified by humanitarian concerns or grave humanitarian concerns or is otherwise in the national interest, and to provide such members with the following information:

(1) A description of the nature of the refugee situation.

(2) A description of the number and allocation of the refugees to be admitted and an analysis of conditions within the countries from which they came.

(3) A description of the proposed plans for their movement and resettlement and the estimated cost of their movement and resettlement.

(4) An analysis of the anticipated social, economic, and demographic impact of their admission to the United States.

(5) A description of the extent to which other countries will admit and assist in the resettlement of such refugees.

(6) An analysis of the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States.

(7) Such additional information as may be appropriate or requested by such members.

To the extent possible, information described in this subsection shall be provided at least two weeks in advance of discussions in person by designated representatives of the President with such members.

ASYLUM PROCEDURE

Sec. 208. [8 U.S.C. 1158] (a) The Attorney General shall establish a procedure for an alien physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for asylum, and the alien may be granted asylum in the discretion of the Attorney General if the Attorney General determines that such alien is a refugee within the meaning of section 101(a)(42)(A).

(b) Asylum granted under subsection (a) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that the alien is no longer a refugee within the meaning of section 101(a)(42)(A) owing to a change in circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided.

(c) A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under subsection (a) may, if not otherwise eligible for asylum under such subsection, be granted the same status as the alien if accompanying, or following to join, such alien.

ADJUSTMENT OF STATUS OF REFUGEES

Sec. 209. [8 U.S.C. 1159] (a)(1) Any alien who has been admitted to the United States under section 207—

(A) whose admission has not been terminated by the Attorney General pursuant to such regulations as the Attorney General may prescribe,

(B) who has been physically present in the United States for at least one year, and

(C) who has not acquired permanent resident status,

shall, at the end of such year period, return or be returned to the custody of the Service for inspection and examination for admission to the United States as an immigrant in accordance with the provisions of sections 235, 236, and 237.

(2) Any alien who is found upon inspection and examination by an immigration officer pursuant to paragraph (1) or after a hearing before a special inquiry officer to be admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of the alien's inspection and examination shall, notwithstanding any numerical limitation specified in this Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of such alien's arrival into the United States.

(b) Not more than five thousand of the refugee admissions authorized under section 207(a) in any fiscal year may be made available by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to adjust to the status of an alien lawfully admitted for permanent residence the status of any alien granted asylum who—

(1) applies for such adjustment,

(2) has been physically present in the United States for at least one year after being granted asylum,

(3) continues to be a refugee within the meaning of section 101(a)(42)(A) or a spouse or child of such a refugee,

(4) is not firmly resettled in any foreign country, and

(5) is admissible (except as otherwise provided under subsection (c)) as an immigrant under this Act at the time of examination for adjustment of such alien.

Upon approval of an application under this subsection, the Attorney General shall establish a record of the alien's admission for lawful permanent residence as of the date one year before the date of the approval of the application.

(c) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not be applicable to any alien seeking adjustment of status under this section, and the Attorney General may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

SPECIAL AGRICULTURAL WORKERS [41]

SEC. 210. [8 U.S.C. 1160] (a) LAWFUL RESIDENCE.—

(1) IN GENERAL.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the Attorney General determines that the alien meets the following requirements:

(A) APPLICATION PERIOD.—The alien must apply for such adjustment during the 18-month period beginning on the first day of the seventh month that begins after the date of enactment of this section.

(B) PERFORMANCE OF SEASONAL AGRICULTURAL SERVICES AND RESIDENCE IN THE UNITED STATES.—The alien must establish that he has—

(i) resided in the United States, and

(ii) performed seasonal agricultural services in the United States for at least 90 man-days,

during the 12-month period ending on May 1, 1986. For purposes of the previous sentence, performance of seasonal agricultural services in the United States for more than one employer on any one day shall be counted as performance of services for only 1 man-day.

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[41] This section was added by § 302(a)(1) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3417).

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2).

(2) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence on the following date:

(A) GROUP 1.—Subject to the numerical limitation established under subparagraph (C), in the case of an alien who has established, at the time of application for temporary residence under paragraph (1), that the alien performed seasonal agricultural services in the United States for at least 90 man-days during each of the 12-months periods ending on May 1, 1984, 1985, and 1986, the adjustment shall occur on the first day after the end of the one-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

(B) GROUP 2.—In the case of aliens to which subparagraph (A) does not apply, the adjustment shall occur on the day after the last day of the two-year period that begins on the later of (I) the date the alien was granted such temporary resident status, or (II) the day after the last day of the application period described in paragraph (1)(A).

(C) NUMERICAL LIMITATION.—Subparagraph (A) shall not apply to more than 350,000 aliens. If more than 350,000 aliens meet the requirements of such subparagraph, such subparagraph shall apply to the 350,000 aliens whose applications for adjustment were first filed under paragraph (1) and subparagraph (B) shall apply to the remaining aliens.

(3) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under paragraph (1), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

(4) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

(5) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under paragraph (1), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section

101(a)(20)), other than under any provision of the immigration laws.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—

(A) WITHIN THE UNITED STATES.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(i) with the Attorney General, or

(ii) with a designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Attorney General.

(B) OUTSIDE THE UNITED STATES.—The Attorney General, in cooperation with the Secretary of State, shall provide a procedure whereby an alien may apply for adjustment of status under subsection (a)(1) at an appropriate consular office outside the United States. If the alien otherwise qualifies for such adjustment, the Attorney General shall provide such documentation of authorization to enter the United States and to have the alien's status adjusted upon entry as may be necessary to carry out the provisions of this section.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—For purposes of receiving applications under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, community, farm labor organizations, and associations of agricultural employers, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that he meets the requirement of subsection (a)(1)(B)(ii) through government employment records, records supplied by employers or collective bargaining organizations, and such other reliable documentation as the alien may provide. The Attorney General shall establish special procedures to credit properly work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—(i) An alien applying for adjustment of status under subsection (a)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of man-days (as required under subsection (a)(1)(B)(ii)).

(ii) If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Attorney General.

(iii) An alien can meet such burden of proof if the alien establishes that the alien has in fact performed the work described in subsection (a)(1)(B)(ii) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. In such a case, the burden then shifts to the Attorney General to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

(4) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(A)(ii) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this section by designated entities operating under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

(6) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (7),

(B) make any publication whereby the information furnished by any particular individual can be identified, or

(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications.

Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Whoever—

(i) files an application for adjustment of status under this section and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(B) EXCLUSION.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(19).

(c) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR EXCLUSION.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF GROUNDS FOR EXCLUSION.—In the determination of an alien's admissibility under subsection (a)(1)(C)—

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraph (9) and (10) (relating to criminals).

(II) Paragraph (15) (relating to aliens likely to become public charges).

(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(d) TEMPORARY STAY OF EXCLUSION OR DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1) and who can establish a nonfrivolous case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a nonfrivolous application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be excluded or deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(3)[42] No application fees collected by the Immigration and Naturalization Service (INS) pursuant to section 210(d) of the Immigration and Nationality Act (INA) may be used by the INS to offset the costs of the special agricultural worker legalization program until the INS implements the program consistent with the statutory mandate as follows:

(A) During the application period as defined in section 210(a)(1)(A) of the INA the INS may grant temporary admission to the United States, work authorization, and provide an "employment authorized" endorsement or other appropriate work permit to any alien who presents a preliminary application for adjustment of status under subsection (a) at a designated port of entry on the southern land border. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in the INA.

(B) During the application period as defined in section 210(a)(B)(1)(B)[43] of the INA any alien who has filed an application for adjustment of status within the United States as provided in section 210(b)(1)(A) pursuant to the provision of 8 CFR section 210.1(j) is subject to paragraph (2) of this subsection.

(C) A preliminary application is defined as a fully completed and signed application with fee and photographs which contains specific information concerning the performance of qualifying employment in the United States and the documentary evidence which the applicant intends to submit as proof of such employment. The applicant must be otherwise admissible to the United States and must establish to the satisfaction of the examining officer during an interview that his or her claim to eligibility for special agriculture worker status is credible.

(e) ADMINISTRATIVE AND JUDICIAL REVIEW.—

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[42] Paragraph (3) was inserted by § 211 of the Department of Justice Appropriation Act, 1988 (101 Stat. 1329-19, as contained in § 101(a) of Pub. L. 100-202). The text shown includes 3 enrollment corrections noted in the law as printed.

[43] Reference should probably be to subsection "(a)(1)(A)".

(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF EXCLUSION OR DEPORTATION.—There shall be judicial review of such a denial only in the judicial review of an order of exclusion or deportation under section 106.

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(f) TEMPORARY DISQUALIFICATION OF NEWLY LEGALIZED ALIENS FROM RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law, the alien is not eligible for aid under a State plan approved under part A of title IV of the Social Security Act. Notwithstanding the previous sentence, in the case of an alien who would be eligible for aid under a State plan approved under part A of title IV of the Social Security Act but for the previous sentence, the provisions of paragraph (3) of section 245A(h) shall apply in the same manner as they apply with respect to paragraph (1) of such section and, for this purpose, any reference in section 245A(h)(3) to paragraph (1) is deemed a reference to the previous sentence.

(g) TREATMENT OF SPECIAL AGRICULTURAL WORKERS.—For all purposes (subject to subsections (a)(5) and (f)) an alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence, such status not having changed, shall be considered to be an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20)).

(h) SEASONAL AGRICULTURAL SERVICES DEFINED.—In this section, the term "seasonal agricultural services" means the performance of field work related to planting, cultural practices, cultivating, growing and harvesting of fruits and vegetables of every kind and other perishable commodities, as defined in regulations by the Secretary of Agriculture.

DETERMINATION OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS [44]

SEC. 210A. [8 U.S.C. 1161] (a) DETERMINATION OF NEED TO ADMIT ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

(1) IN GENERAL.—Before the beginning of each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Secretaries of Labor and Agriculture (in this section referred to as the "Secretaries") shall jointly determine the number (if any) of additional aliens who should be admitted to the United States or who should otherwise acquire the status of aliens lawfully admitted for temporary residence under this section during the fiscal year to meet a shortage of workers to perform seasonal agricultural services in the United States during the year. Such number is, in this section, referred to as the "shortage number".

(2) OVERALL DETERMINATION.—The shortage number is—

(A) the anticipated need for special agricultural workers (as determined under paragraph (4)) for the fiscal year, minus

(B) the supply of such workers (as determined under paragraph (5)) for that year,

divided by the factor (determined under paragraph (6)) for man-days per worker.

(3) NO REPLENISHMENT IF NO SHORTAGE.—In determining the shortage number, the Secretaries may not determine that there is a shortage unless, after considering all of the criteria set forth in paragraphs (4) and (5), the Secretaries determine that there will not be sufficient able, willing, and qualified workers available to perform seasonal agricultural services required in the fiscal year involved.

(4) DETERMINATION OF NEED.—For purposes of paragraph (2)(A), the anticipated need for special agricultural workers for a fiscal year is determined as follows:

(A) BASE.—The Secretaries shall jointly estimate, using statistically valid methods, the number of man-days of labor performed in seasonal agricultural services in the United States in the previous fiscal year.

(B) ADJUSTMENT FOR CROP LOSSES AND CHANGES IN INDUSTRY.—The Secretaries shall jointly—

(i) increase such number by the number of man-days of labor in seasonal agricultural services in the United States that would have been needed in the previous fiscal year to avoid any crop damage or other loss that resulted from the unavailability of labor, and

(ii) adjust such number to take into account the projected growth or contraction in the requirements for seasonal agricultural services as a result of—

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[44] This section was added by § 303(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3422).

(I) growth or contraction in the seasonal agriculture industry, and

(II) the use of technologies and personnel practices that affect the need for, and retention of, workers to perform such services.

(5) DETERMINATION OF SUPPLY.—For purposes of paragraph (2)(B), the anticipated supply of special agricultural workers for a fiscal year is determined as follows:

(A) BASE.—The Secretaries shall use the number estimated under paragraph (4)(A).

(B) ADJUSTMENT FOR RETIREMENTS AND INCREASED RECRUITMENT.—The Secretaries shall jointly—

(i) decrease such number by the number of man-days of labor in seasonal agricultural services in the United States that will be lost due to retirement and movement of workers out of performance of seasonal agricultural services, and

(ii) increase such number by the number of additional man-days of labor in seasonal agricultural services in the United States that can reasonably be expected to result from the availability of able, willing, qualified, and unemployed special agricultural workers, rural low skill, or manual, laborers, and domestic agricultural workers.

(C) BASES FOR INCREASED NUMBER.—In making the adjustment under subparagraph (B)(ii), the Secretaries shall consider—

(i) the effect, if any, that improvements in wages and working conditions offered by employers will have on the availability of workers to perform seasonal agricultural services, taking into account the adverse effect, if any, of such improvements in wages and working conditions on the economic competitiveness of the perishable agricultural industry,

(ii) the effect, if any, of enhanced recruitment efforts by the employers of such workers and government employment services in the traditional and expected areas of supply of such workers, and

(iii) the number of able, willing and qualified individuals who apply for employment opportunities in seasonal agricultural services listed with offices of government employment services.

(D) CONSTRUCTION.—Nothing in this subsection shall be deemed to require any individual employer to pay any specified level of wages, to provide any specified working conditions, or to provide for any specified recruitment of workers.

(6) DETERMINATION OF MAN-DAY PER WORKER FACTOR.—

(A) FISCAL YEAR 1990.—For fiscal year 1990—

(i) IN GENERAL.—Subject to clause (ii), for purposes of paragraph (2) the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1989 by special agricultural workers whose status is adjusted under section 210 and who performed seasonal agricultural services in the United States at any time during the fiscal year.

(ii) LACK OF ADEQUATE INFORMATION.—If the Director determines that—

(I) the information reported under subsection (b)(2)(A) is not adequate to make a reasonable estimate of the average number described in clause (i), but

(II) the inadequacy of the information is not due to the refusal or failure of employers to report the information required under subsection (b)(2)(A),

the factor under this paragraph is 90.

(B) FISCAL YEAR 1991.—For purposes of paragraph (2) for fiscal year 1991, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in fiscal year 1990 by special agricultural workers who obtained lawful temporary resident status under this section.

(C) FISCAL YEARS 1992 AND 1993.—For purposes of paragraph (2) for fiscal years 1992 and 1993, the factor under this paragraph is the average number, as estimated by the Director of the Bureau of the Census under subsection (b)(3)(A)(ii), of man-days of seasonal agricultural services performed in the United States in each of the two previous fiscal years by special agricultural workers who obtained lawful temporary resident status under this section during either of such fiscal years.

(7) EMERGENCY PROCEDURE FOR INCREASE IN SHORTAGE NUMBER.—

(A) REQUESTS.—After the beginning of a fiscal year, a group or association representing employers (and potential employers) of individuals who perform seasonal agricultural services may request the Secretaries to increase the shortage number for the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant increase in the shortage number due to (i) a significant increase in the need for special agricultural workers in the year, (ii) a significant decrease in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant decrease (below the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

(B) NOTICE OF EMERGENCY PROCEDURE.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

(C) PROMPT DETERMINATION ON REQUEST.—The Secretaries, not later than 21 days after the date of the receipt of such a request and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the shortage number for the fiscal year shall be increased, to the extent that the Secretaries determine that such an increase is justified based upon the showing and circumstances described in subparagraph (A) and that such an increase takes into account reasonable recruitment efforts having been undertaken.

(8) PROCEDURE FOR DECREASING MAN-DAYS OF SEASONAL AGRICULTURAL SERVICES REQUIRED IN THE CASE OF OVERSUPPLY OF WORKERS.—

(A) REQUESTS.—After the beginning of a fiscal year, a group of special agricultural workers may request the Secretaries to decrease the number of man-days required under subparagraphs (A) and (B) of subsection (d)(2) with respect to the fiscal year based upon a showing that extraordinary, unusual, and unforeseen circumstances have resulted in a significant decrease in the shortage number due to (i) a significant decrease in the need for special agricultural workers in the year, (ii) a significant increase in the availability of able, willing, and qualified workers to perform seasonal agricultural services, or (iii) a significant increase (above the factor used for purposes of paragraph (6)) in the number of man-days of seasonal agricultural services performed by aliens who were recently admitted (or whose status was recently adjusted) under this section.

(B) NOTICE OF REQUEST.—Not later than 3 days after the date the Secretaries receive a request under subparagraph (A), the Secretaries shall provide for notice in the Federal Register of the substance of the request and shall provide an opportunity for interested parties to submit information to the Secretaries on a timely basis respecting the request.

(C) DETERMINATION ON REQUEST.—The Secretaries, before the end of the fiscal year involved and after consideration of any information submitted on a timely basis with respect to the request, shall make and publish in the Federal Register their determination on the request. The request shall be granted, and the number of man-days specified in subparagraphs (A) and (B) of subsection (d)(2) for the fiscal year shall be reduced by the same proportion as the Secretaries determine that a decrease in the shortage number is justified based upon the showing and circumstances described in subparagraph (A).

(b) ANNUAL NUMERICAL LIMITATION ON ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.—

(1) ANNUAL NUMERICAL LIMITATION.—

(A) FISCAL YEAR 1990.—The numerical limitation on the number of aliens who may be admitted under subsection *(c)(1) or who otherwise may* acquire lawful temporary residence under such subsection for fiscal year 1990 is—

(i) 95 percent of the number of individuals whose status was adjusted under section 210(a), minus

(ii) the number estimated under paragraph (3)(A)(i) for fiscal year 1989 (as adjusted in accordance with subparagraph (C)).

(B) FISCAL YEARS 1991, 1992, AND 1993.—The numerical limitation on the number of aliens who may be admitted under subsection (c)(1) or who otherwise may acquire lawful temporary residence under such subsection for fiscal year 1991, 1992, or 1993 is—

(i) 90 percent of the number described in this clause for the previous fiscal year (or, for fiscal year 1991, the number described in subparagraph (A)(i)), minus

(ii) the number estimated under paragraph (3)(A)(i) for the previous fiscal year (as adjusted in accordance with subparagraph (C)).

(C) ADJUSTMENT TO TAKE INTO ACCOUNT CHANGE IN NUMBER OF H-2 AGRICULTURAL WORKERS.—The number used under subparagraph (A)(ii) or (B)(ii) (as the case may be) shall be increased or decreased to reflect any numerical increase or decrease, respectively, in the number of aliens admitted to perform temporary seasonal agricultural services (as defined in subsection (g)(2)) under section 101(a)(15)(H)(ii)(a) in the fiscal year compared to such number in the previous fiscal year.

(2) REPORTING OF INFORMATION ON EMPLOYMENT.—In the case of a person or entity who employs, during a fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992) in seasonal agricultural services, a special agricultural worker—

(A) whose status was adjusted under section 210, the person or entity shall furnish an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year, or

(B) who was admitted or whose status was adjusted under this section, the person or entity shall furnish the alien and an official designated by the Secretaries with a certificate (at such time, in such form, and containing such information as the Secretaries establish, after consultation with the Attorney General and the Director of the Bureau of the Census) of the number of man-days of employment performed by the alien in seasonal agricultural services during the fiscal year.

(3) Annual Estimate of Employment of Special Agricultural Workers.—

(A) In general.—The Director of the Bureau of the Census shall, before the end of each fiscal year (beginning with fiscal year 1989 and ending with fiscal year 1992), estimate—

(i) the number of special agricultural workers who have performed seasonal agricultural services in the United States at any time during the fiscal year, and

(ii) for purposes of subsection (a)(5), the average number of man-days of such services certain of such workers have performed in the United States during the fiscal year.

(B) Furnishing of information to director.—The official designated by the Secretaries under paragraph (2) shall furnish to the Director, in such form and manner as the Director specifies, information contained in the certifications furnished to the official under paragraph (2).

(C) Basis for estimates.—The Director shall base the estimates under subparagraph (A) on the information furnished under subparagraph (B), but shall take into account (to the extent feasible) the underreporting or duplicate reporting of special agricultural workers who have performed seasonal agricultural services at any time during the fiscal year. The Director shall periodically conduct appropriate surveys, of agricultural employers and others, to ascertain the extent of such underreporting or duplicate reporting.

(D) Report.—The Director shall annually prepare and report to the Congress information on the estimates made under this paragraph.

(c) Admission of Additional Special Agricultural Workers.—

(1) In general.—For each fiscal year (beginning with fiscal year 1990 and ending with fiscal year 1993), the Attorney General shall provide for the admission for lawful temporary resident status, or for the adjustment of status to lawful temporary resident status, of a number of aliens equal to the shortage number (if any, determined under subsection (a)) for the fiscal year, or, if less, the numerical limitation established under subsection (b)(1) for the fiscal year. No such alien shall be admitted who is not admissible to the United States as an immigrant, except as otherwise provided under subsection (e).

(2) Allocation of visas.—The Attorney General shall, in consultation with the Secretary of State, provide such process as may be appropriate for aliens to petition for immigrant visas or to adjust status to become aliens lawfully admitted for temporary residence under this subsection. No alien may be issued a visa as an alien to be admitted under this subsection or may have the alien's status adjusted under this subsection unless the alien has had a petition approved under this paragraph.

(d) Rights of Aliens Admitted or Adjusted Under This Section.—

(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (c) to that of an alien lawfully admitted for permanent residence at the end of the 3-year period that begins on the date the alien was granted such temporary resident status.

(2) TERMINATION OF TEMPORARY RESIDENCE.—During the period of temporary resident status granted an alien under subsection (c), the Attorney General may terminate such status only upon a determination under this Act that the alien is deportable.

(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under this section, the alien has the right to travel abroad (including commutation from a residence abroad) and shall be granted authorization to engage in employment in the United States and shall be provided an "employment authorized" endorsement or other appropriate work permit, in the same manner as for aliens lawfully admitted for permanent residence.

(4) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (c), such status not having changed, is considered to be an alien lawfully admitted for permanent residence (as described in section 101(a)(20)), other than under any provision of the immigration laws.

(5) EMPLOYMENT IN SEASONAL AGRICULTURAL SERVICES REQUIRED.—

(A) FOR 3 YEARS TO AVOID DEPORTATION.—In order to meet the requirement of this paragraph (for purposes of this subsection and section 241(a)(20)), an alien, who has obtained the status of an alien lawfully admitted for temporary residence under this section, must establish to the Attorney General that the alien has performed 90 man-days of seasonal agricultural services—

(i) during the one-year period beginning on the date the alien obtained such status,

(ii) during the one-year period beginning one year after the date the alien obtained such status, and

(iii) during the one-year period beginning two years after the date the alien obtained such status.

(B) FOR 5 YEARS FOR NATURALIZATION.—Notwithstanding any provision in title III, an alien admitted under this section may not be naturalized as a citizen of the United States under that title unless the alien has performed 90 man-days of seasonal agricultural services in each of 5 fiscal years (not including any fiscal year before the fiscal year in which the alien was admitted under this section).

(C) PROOF.—In meeting the requirements of subparagraphs (A) and (B), an alien may submit such documentation as may be submitted under section 210(b)(3).

(D) ADJUSTMENT OF NUMBER OF MAN-DAYS REQUIRED.—The number of man-days specified in subparagraphs (A) and (B) are subject to adjustment under subsection (a)(8).

(6) DISQUALIFICATION FROM CERTAIN PUBLIC ASSISTANCE.—The provisions of section 245A(h) (other than paragraph (1)(A)(iii)) shall apply to an alien who has obtained the status of an alien lawfully admitted for temporary residence under this section, during the five-year period beginning on the date the alien obtained such status, in the same manner as they apply to an alien granted lawful temporary residence under section 245A; except that, for purposes of this paragraph, assistance furnished under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) or under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) shall not be construed to be financial assistance described in section 245A(h)(1)(A)(i).

(e) DETERMINATION OF ADMISSIBILITY OF ADDITIONAL WORKERS.—In the determination of an alien's admissibility under subsection (c)(1)—

(1) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

(2) WAIVER OF CERTAIN GROUNDS FOR EXCLUSION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(B) GROUNDS THAT MAY NOT BE WAIVED.—The following provisions of section 212(a) may not be waived by the Attorney General under subparagraph (A):

(i) Paragraphs (9) and (10) (relating to criminals).

(ii) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(iii) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

(iv) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(3) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

(f) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(1) Equal transportation for domestic workers.—If a person employs an alien, who was admitted or whose status is adjusted under subsection (c), in the performance of seasonal agricultural services and provides transportation arrangements or assistance for such workers, the employer must provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed in the performance of seasonal agricultural services.

(2) Prohibition of false information by certain employers.—A farm labor contractor, agricultural employer, or agricultural association who is an exempt person (as defined in paragraph (5)) shall not knowingly provide false or misleading information to an alien who was admitted or whose status was adjusted under subsection (c) concerning the terms, conditions, or existence of agricultural employment (described in subsection (a), (b), or (c) of section 301 of MASAWPA)[45].

(3) Prohibition of discrimination by certain employers.—In the case of an exempt person and with respect to aliens who have been admitted or whose status has been adjusted under subsection (c), the provisions of section 505 of MASAWPA [45] shall apply to any proceeding under or related to (and rights and protections afforded by) this section in the same manner as they apply to proceedings under or related to (and rights and protections afforded by) MASAWPA.

(4) Enforcement.—If a person or entity—

(A) fails to furnish a certificate required under subsection (b)(2) or furnishes false statement of a material fact in such a certificate,

(B) violates paragraph (1) or (2), or

(C) violates the provisions of section 505(a) of MASAWPA (as they apply under paragraph (3)),

the person or entity is subject to a civil money penalty under section 503 of MASAWPA in the same manner as if the person or entity had committed a violation of MASAWPA [45].

(5) Special definitions.—In this subsection:

(A) MASAWPA.—The term "MASAWPA" means the Migrant and Seasonal Agricultural Worker Protection Act (Public Law 97-470).

(B) The term "exempt person" means a person or entity who would be subject to the provisions of MASAWPA but for paragraph (1) or (2), or both, of section 4(a) of MASAWPA.

(g) General Definitions.—In this section:

(1) The term "special agricultural worker" means an individual, regardless of present status, whose status was at any time adjusted under section 210 or who at any time was admitted or had the individual's status adjusted under subsection (c).

(2) The term "seasonal agricultural services" has the meaning given such term in section 210(h).

(3) The term "Director" refers to the Director of the Bureau of the Census.

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[45] For provisions of MASAWPA referred to in this section, see Appendix VII. C., p. 358.

(4) The term "man-day" means, with respect to seasonal agricultural services, the performance during a calendar day of at least 4 hours of seasonal agricultural services.

CHAPTER 2—QUALIFICATIONS FOR ADMISSION OF ALIENS; TRAVEL CONTROL OF CITIZENS AND ALIENS

DOCUMENTARY REQUIREMENTS

SEC. 211. [8 U.S.C. 1181] (a) Except as provided in subsection (b) and subsection (c) no immigrant shall be admitted into the United States unless at the time of application for admission he (1) has a valid unexpired immigrant visa or was born subsequent to the issuance of such visa of the accompanying parent, and (2) presents a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General. With respect to immigrants to be admitted under quotas of quota areas prior to June 30, 1968, no immigrant visa shall be deemed valid unless the immigrant is properly chargeable to the quota area under the quota of which the visa is issued.

(b) Notwithstanding the provisions of section 212(a)(20) of this Act in such cases or in such classes of cases and under such conditions as may be by regulations prescribed, returning resident immigrants, defined in section 101(a)(27)(A), who are otherwise admissible may be readmitted to the United States by the Attorney General in his discretion without being required to obtain a passport, immigrant visa, reentry permit or other documentation.

(c) The provisions of subsection (a) shall not apply to an alien whom the Attorney General admits to the United States under section 207.

GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION; WAIVERS OF INADMISSIBILITY

SEC. 212. [8 U.S.C. 1182] (a) Except as otherwise provided in this Act,[46] the following classes of aliens shall be ineligible to re-

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[46] Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) provides as follows:

SEC. 7. Whenever the Director [of the Central Intelligence Agency], the Attorney General, and the Commissioner of Immigration [and Naturalization] shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the Immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided,* That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

Section 4 of the Atomic Weapons and Special Nuclear Materials Rewards Act (50 U.S.C. 47c) provides as follows:

SEC. 4. If the information leading to an award under section 3 [viz., concerning illegal introduction, manufacture, acquisition, and export of special nuclear material or atomic weapons or conspiracies related thereto] is furnished by an alien, the Secretary of State, the Attorney General, and the Director of Central Intelligence, acting jointly, may determine that the entry of such alien into the United States is in the public interest and, in that event, such alien and the members of his immediate family may receive immigrant visas and may be admitted to the

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ceive visas and shall be excluded from admission into the United States:

(1) Aliens who are mentally retarded;

(2) Aliens who are insane;

(3) Aliens who have had one or more attacks of insanity;

(4) Aliens afflicted with psychopathic personality, or sexual deviation, or a mental defect;

(5) Aliens who are narcotic drug addicts or chronic alcoholics;

(6) Aliens who are afflicted with any dangerous contagious disease; [47]

(7) Aliens not comprehended within any of the foregoing classes who are certified by the examining surgeon as having a physical defect, disease, or disability, when determined by the consular or immigration officer to be of such a nature that it may affect the ability of the alien to earn a living, unless the alien affirmatively establishes that he will not have to earn a living;

(8) Aliens who are paupers, professional beggars, or vagrants;

(9) Aliens who have been convicted of a crime involving moral turpitude (other than a purely political offense), or aliens who admit having committed such a crime, or aliens who admit committing acts which constitute the essential elements of such a crime; except that aliens who have committed only one such crime while under the age of eighteen years may be granted a visa and admitted if the crime was committed more than five years prior to the date of the application for a visa or other documentation, and more than five years prior to date of application for admission to the United States, unless the crime resulted in confinement in a prison or correctional institution, in which case such alien must have been released from such confinement more than five years prior to the date of the application for a visa or other documentation, and for admission, to the United States. An alien who would be excludable because of the conviction of an offense for which the sentence actually imposed did not exceed a term of imprisonment in excess of six months, or who would be excludable as one who admits the commission of an offense for which a sentence not to exceed one year's imprisonment might have been imposed on him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided,* That the alien has committed only one such of-

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United States for permanent residence, notwithstanding the requirements of the Immigration and Nationality Act.

Section 204(c)(3) of the Refugee Act of 1980 (Pub. L. 96–212, Mar. 17, 1980, 94 Stat. 109) provides as follows:

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provision of section 212(a) of such Act (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

For table of applicability of grounds of visa ineligibility and waiver, see Appendix XI. E., at p. 470.

[47] § 518 of the Supplemental Appropriations Act, 1987 (Pub. L. 100–71, 101 Stat. 475) required the President, on or before August 31, 1987, under the authority of this provision, to add human immunodeficiency virus infection to the list of danger contagious diseases contained in title 42 of the Code of Federal Regulations. Such regulations were issued on August 28, 1987, 52 F.R. 32543. See § 34.2(b) of title 42, Code of Federal Regulations.

fense, or admits the commission of acts which constitute the essential elements of only one such offense.[48]

(10) Aliens who have been convicted of two or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were five years or more;

(11) Aliens who are polygamists or who practice polygamy or advocate the practice of polygamy;

(12) Aliens who are prostitutes or who have engaged in prostitution, or aliens coming to the United States solely, principally, or incidentally to engage in prostitution; aliens who directly or indirectly procure or attempt to procure, or who have procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution or for any other immoral purpose; and aliens who are or have been supported by, or receive or have received, in whole or in part, the proceeds of prostitution or aliens coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution;

(13) Aliens coming to the United States to engage in any immoral sexual act;

(14) Aliens seeking to enter the United States, for the purpose of performing skilled or unskilled labor, unless the Secretary of Labor has determined and certified [49] to the Secretary of State and the Attorney General that (A) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of aliens who are members of the teaching profession or who have exceptional ability in the sciences or the arts), and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and (B) the employment of such aliens will not adversely affect the wages and working conditions of the workers in the United States similarly employed. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6), and to nonpreference immigrant aliens described in section 203(a)(7);

(15) Aliens who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, are likely at any time to become public charges; [50]

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[48] This sentence because effective on November 1, 1987, pursuant to §§ 220(a) and 235(a)(1) of Pub. L. 98-473, as amended by § 4 of Pub. L. 99-217. Previously, this sentence read as follows: "Any alien who would be excludable because of the conviction of a misdemeanor classifiable as a petty offense under the provisions of section 1(3) of title 18, United States Code, by reason of the punishment actually imposed, or who would be excludable as one who admits the commission of an offense that is classifiable as a misdemeanor under the provisions of section 1(2) of title 18, United States Code, by reason of the punishment which might have been imposed upon him, may be granted a visa and admitted to the United States if otherwise admissible: *Provided,* That the alien has committed only one such offense, or admits the commission of acts which constitute the essential elements of only one such offense.".

[49] Regulations of the Department of Labor regarding the labor certification process for permanent employment of aliens in the United States are contained in title 20, C.F.R., part 656.

[50] §§ 415 & 1621 of the Social Security Act provide for attribution to an alien of a sponsor's income and resources for purposes of determining the eligibility for and amount of benefits of the alien under the AFDC and SSI programs, respectively.

(16) Aliens who have been excluded from admission and deported and who again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their reapplying for admission;

(17) Aliens who have been arrested and deported, or who have fallen into distress and have been removed pursuant to this or any prior act, or who have been removed as alien enemies, or who have been removed at Government expense in lieu of deportation pursuant to section 242(b), and who seek admission within five years (or within ten years in the case of an alien convicted of an aggravated felony)[51] of the date of such deportation or removal, unless prior to their embarkation or reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory the Attorney General has consented to their applying or reapplying for admission;

(18) Aliens who are stowaways;

(19)[52] Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure, or has sought to procure or has procured, a visa, other documentation, or entry into the United States or other benefit provided under this Act;

(20) Except as otherwise specifically provided in this Act, any immigrant who at the time of application for admission is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Attorney General pursuant to section 211(a);

(21) Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission whose visa has been issued without compliance with the provisions of section 203;

(22) Aliens who are ineligible to citizenship, except aliens seeking to enter as nonimmigrants; or persons who have departed from or who have remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency, except aliens who were at the time of such departure nonimmigrant aliens and who seek to reenter the United States as nonimmigrants;

(23)[53] Any alien who—

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[51] The parenthetical phrase was inserted by § 7349(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, 102. Stat. 4473), applicable to any alien convicted of an aggravated felony who seeks admission to the United States on or after November 18, 1988.

[52] Paragraph (19) was amended by § 6(a) of Pub. L. 99-639, applicable to the receipt of visas by, and the admission of, aliens on or after Nov. 20, 1986, without regard to the date the fraud or misrepresentation occurred.

[53] Paragraph (23) was amended in its entirety by § 806 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987). The substance of the rewrite was to insert in subparagraph (B) the language following "controlled substance" the first place it appears. Previously, paragraph (23) read as follows (as previously amended by § 1751(a) of the Anti-Drug Abuse Act of 1986, Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207-47, which substituted reference to a controlled substance, effective for convictions occurring before, on, or after October 27, 1986, and for aliens entering the United States after that date:

Continued

(A) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

(B) the consular officers or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance;

[(24) Repealed by § 7(a) of Pub. L. 99-653, effective for visas issued, and admissions occurring, on or after November 14, 1986.]

(25) Aliens (other than aliens who have been lawfully admitted for permanent residence and who are returning from a temporary visit abroad) over sixteen years of age, physically capable of reading, who cannot read and understand some language or dialect;

(26) Any nonimmigrant who is not in possession of (A) a passport valid for a minimum period of six months from the date of the expiration of the initial period of his admission or contemplated initial period of stay authorizing him to return to the country from which he came or to proceed to and enter some other country during such period; and (B) at the time of application for admission a valid nonimmigrant visa or border crossing identification card;

(27) Aliens who the consular officer or the Attorney General knows or has reason to believe seek to enter the United States solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest, or endanger the welfare, safety, or security of the United States;

(28) Aliens who are, or at any time have been, members of any of the following classes:

(A) Aliens who are anarchists;

(B)[54] Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C)[54] Aliens who are members of or affiliated with (i) the Communist Party of the United States, (ii) any other totalitarian party of the United States, (iii) the Communist Political Association, (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state, (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party, or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided*, That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advo-

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(23) Any alien who has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or any alien who the consular officer or immigration officers know or have reason to believe is or has been an illicit trafficker in any such controlled substance;

[54] See footnote 56, p. 61, relating to the so-called McGovern amendment.

cate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D)[54] Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E)[54] Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950,[55] unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F)[54] Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or

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[55] Section 7 of the Subversive Activities Control Act of 1950 (50 U.S.C. 786) was repealed by the Act of Jan. 2, 1968 (81 Stat. 766).

(v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) [54] Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(I) [54] Any alien who is within any of the classes described in subparagraphs (B), (C), (D), (E), (F), (G), and (H) of this paragraph because of membership in or affiliation with a party or organization or a section, subsidiary, branch, affiliate, or subdivision thereof, may, if not otherwise ineligible, be issued a visa if such alien establishes to the satisfaction of the consular officer when applying for a visa and the consular officer finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for a visa, actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. Any such alien to whom a visa has been issued under the provisions of this subparagraph may, if not otherwise inadmissible, be admitted into the United States if he shall establish to the satisfaction of the Attorney General when applying for admission to the United States and the Attorney General finds that (i) such membership or affiliation is or was involuntary, or is or was solely when under sixteen years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and when necessary for such purposes, or (ii)(a) since the termination of such membership or affiliation, such alien is and has been, for at least five years prior to the date of the application for admission actively opposed to the doctrine, program, principles, and ideology of such party or organization or the section, subsidiary, branch, or affiliate or subdivision thereof, and (b) the admission of such alien into the United States would be in the public interest. The Attorney General shall promptly make a detailed report to the Congress in the case of each alien who is or shall be admitted into the United States under (ii) of this subparagraph;

(29) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, (A) engage in activities which would be prohibited by the laws of the United States relating to espionage, sabotage, public disorder, or in other activity subversive to the national security, (B) engage in any activity a purpose of which is the opposition

to, or the control or overthrow of, the Government of the United States, by force, violence, or other unconstitutional means, or (C) join, affiliate with, or participate in the activities of any organization which is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 [58];

(30) Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported;

(31) Any alien who at any time shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(32) Aliens who are graduates of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and are coming to the United States principally to perform services as members of the medical profession, except such aliens who have passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and who are competent in oral and written English. The exclusion of aliens under this paragraph shall apply to preference immigrant aliens described in section 203(a) (3) and (6) and to nonpreference immigrant aliens described in section 203(a)(7). For the purposes of this paragraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date;

(33) Any alien who during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government in Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion.

(b) The provisions of paragraph (25) of subsection (a) shall not be applicable to any alien who (1) is the parent, grandparent, spouse, daughter, or son of an admissible alien, or any alien lawfully admitted for permanent residence, or any citizen of the United States, if accompanying such admissible alien, or coming to join such citizen or alien lawfully admitted, and if otherwise admissible, or (2) proves that he is seeking admission to the United States to avoid religious persecution in the country of his last permanent residence, whether such persecution be evidenced by overt acts or by laws or governmental regulations that discriminate against such alien or any group to which he belongs because of his religious faith. For the purpose of ascertaining whether an alien can read under paragraph (25) of subsection (a), the consular officers and immigration officers shall be furnished with slips of uniform size, prepared under direction of the Attorney General, each containing not less than thirty nor more than forty words in ordinary use, printed in plainly legible type, in one of the various languages or dialects of immigrants. Each alien may designate the particular language or dialect in which he desires the examination to be made and shall be required to read and understand the words printed on the slip in such language or dialect.

(c) Aliens lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regard to the provisions of paragraph (1) through (25) and paragraphs (30) and (31) of subsection (a). Nothing contained in this subsection shall limit the authority of the Attorney General to exercise the discretion vested in him under section 211(b).

(d)(1) The provisions of paragraphs (11) and (25) of subsection (a) shall not be applicable to any alien who in good faith is seeking to enter the United States as a nonimmigrant.

(2) The provisions of paragraph (28) of subsection (a) of this section shall not be applicable to any alien who is seeking to enter the United States temporarily as a nonimmigrant under paragraph (15)(A)(iii) or (15)(G)(v) of section 101(a).

(3) [56] Except as provided in this subsection, an alien (A) who is applying for a nonimmigrant visa and is known or believed by the consular officer to be ineligible for such visa under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), may, after approval by the Attorney General of a recommendation by the Secretary of State or by the consular officer that the alien be admitted temporarily despite his inadmissibility, be granted such a visa and may be admitted into

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[56] § 21 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2691, commonly referred to as the "McGovern Amendment") provides as follows:

SEC. 21. (a) For purposes of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for purposes of encouraging other signatory countries to comply with those provisions, the Secretary of State should, within 30 days of receiving an application for a nonimmigrant visa by any alien who is excludible [sic] from the United States by reason of membership in or affiliation with a proscribed organization but who is otherwise admissible to the United States, recommend that the Attorney General grant the approval necessary for the issuance of a visa to such alien, unless the Secretary determines that the admission of such alien would be contrary to the security interests of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate. Nothing in this section may be construed as authorizing or requiring the admission to the United States of any alien who is excludible [sic] for reasons other than membership in or affiliation with a proscribed organization.

(b) This section does not apply to representatives of purported labor organizations in countries where such organizations are in fact instruments of a totalitarian state.

(c) This section does not apply with respect to any alien who is a member, officer, official, representative, or spokesman of the Palestine Liberation Organization.

(d) The Secretary of State may refuse to recommend a waiver for aliens from signatory countries which are not in substantial compliance with the provisions of the Helsinki Final Act, particularly the human rights and humanitarian affairs provisions.

the United States temporarily as a nonimmigrant in the discretion of the Attorney General, or (B) who is inadmissible under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33)), but who is in possession of appropriate documents or is granted a waiver thereof and is seeking admission, may be admitted into the United States temporarily as a nonimmigrant in the discretion of the Attorney General.

(4) Either or both of the requirements of paragraph (26) of subsection (a) may be waived by the Attorney General and the Secretary of State acting jointly (A) on the basis of unforeseen emergency in individual cases, or (B) on the basis of reciprocity with respect to nationals of foreign contiguous territory or of adjacent islands and residents thereof having a common nationality with such nationals, or (C) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

(5)(A) [57] The Attorney General may, except as provided in subparagraph (B), in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B) [58] The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

(6) The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this subsection.

(7) The provisions of subsection (a) of this section, except paragraphs (20), (21), and (26), shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is excluded from admission to the United States, shall be immediately deported in the manner provided by section 237(a) of this Act.

(8) Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions

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[57] See Appendix IV, p. 333 et seq., for provisions for adjustments of status of Hungarian, Cuban, and Indochinese refugees.

[58] This provision applies to aliens paroled into the United States or after May 16, 1980, under section 204(b)(1)(B) of the Refugee Act of 1980 (Pub. L. 96-212, Mar. 17, 1980, 94 Stat. 108).

of this section except paragraphs (26), (27), and (29) of subsection (a) of this section.

(9) [59] The provisions of paragraph (7) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27).

(10) The provisions of paragraph (15) of subsection (a) shall not be applicable to any alien who is seeking to enter the United States as a special immigrant under subparagraph (E), (F), or (G) of section 101(a)(27) and who applies for admission as such a special immigrant not later than March 31, 1982.

(e) No person admitted under section 101(a)(15)(J) or acquiring such status after admission (i) whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of his nationality or his last residence, (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged, or (iii) who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of a least two years following departure from the United States: *Provided,* That upon the favorable recommendation of the Director, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after he has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a lawfully resident alien), or that the alien cannot return to the country of his nationality or last residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the public interest: *And provided further,* That, except in the case of an alien described in clause (iii), the Attorney General may, upon the favorable recommendation of the Director, waive such two-year foreign residence requirement in any case in which the foreign country of the alien's nationality or last residence has furnished the Director a statement in writing that it has no objection to such waiver in the case of such alien.

(f) Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions he may deem to be appropriate.[60]

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[59] Paragraph (9) ceased to be effective on March 31, 1982, under § 3201(d)(2) of the Panama Canal Act of 1979 (Pub. L. 96-70, 93 Stat. 497).

(g) Any alien who is excludable from the United States under paragraph (1) of subsection (a) of this section, or any alien afflicted with tuberculosis in any form who (A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or (B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence in accordance with such terms, conditions, and controls, if any, including the giving of a bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulations prescribe. Any alien excludable under paragraph (3) of subsection (a) of this section because of past history of mental illness who has one of the same family relationships as are prescribed in this subsection for aliens afflicted with tuberculosis and whom the Secretary of Health and Human Services finds to have been free of such mental illness for a period of time sufficient in the light of such history to demonstrate recovery shall be eligible for a visa in accordance with the terms of this subsection.

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[60] Subsections (b) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic] (contained in Pub. L. 100–202, 101 Stat. 1329-40, Dec. 22, 1987) and subsections (b) and (c) of § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100–204, 101 Stat. 1401, Dec. 22, 1987), provide as follows:

(b) Processing of Immigrant Visa Applications of Cuban Nationals in Third Countries.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act [viz., December 22, 1987], consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) Definitions.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

Also, Executive Order No. 12324, Sept. 29, 1981, 46 F.R. 48109 (8 U.S.C. 1182 note) provides as follows:

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, and in order to carry out the suspension and interdiction of such entry which have concurrent been proclaimed [see Proc. No. 4865, Sept. 29, 1981, 46 F.R. 48107, 8 U.S.C. 1182 note, which proclaimed that "[t]he entry of undocumented aliens from the high seas is hereby suspended and shall be prevented by the interdiction of certain vessels carrying such aliens"], it is hereby ordered as follows:

Section. 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 *et seq.*), or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist, provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

Sec. 3. The Attorney General shall, in consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration (including effective implementation of this Executive Order) and the strict observance of our international obligations concerning those who genuinely flee persecution in their homeland.

(h) Any alien, who is excludable from the United States under paragraph (9), (10), or (12) of subsection (a) or paragraph (23) of such subsection as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana, who (A) is the spouse or child, including a minor unmarried adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or (B) has a son or daughter who is a United States citizen or an alien lawfully admitted for permanent residence, shall, if otherwise admissible, be issued a visa and admitted to the United States for permanent residence (1) if it shall be established to the satisfaction of the Attorney General that (A) the alien's exclusion would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or son or daughter of such alien, and (B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and (2) if the Attorney General, in his discretion, and pursuant to such terms, conditions, and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa and for admission to the United States.

(i) Any alien who is the spouse, parent, or child of a United States citizen or of an alien lawfully admitted for permanent residence and who is excludable because (1) he seeks, has sought to procure, or has procured, a visa or other documentation, or entry into the United States, or other benefit under this Act[61] by fraud or misrepresentation, or (2) he admits the commission of perjury in connection therewith, may be granted a visa and admitted to the United States for permanent residence, if otherwise admissible, if the Attorney General in his discretion has consented to the alien's applying or reapplying for a visa and for admission to the United States.

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[61] The phrase "or other benefit under this Act" was inserted by § 7(b) of the Immigration Marriage Fraud Amendments of 1986 (Pub. L. 99-639, Nov. 10, 1986), as amended by § 7(c) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2616).

(j)(1)[62] The additional requirements referred to in section 101(a)(15)(J) for an alien who is coming to the United States under a program under which he will receive graduate medical education or training are as follows:

(A) A school of medicine or of one of the other health professions, which is accredited by a body or bodies approved for the purpose by the Secretary of Education, has agreed in writing to provide the graduate medical education or training under the program for which the alien is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency, except that, in the case of such an agreement by a school of medicine, any one or more of its affiliated hospitals which are to participate in the provision of the graduate medical education or training must join in the agreement.

(B) Before making such agreement, the accredited school has been satisfied that the alien (i) is a graduate of a school of medicine which is accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States); or (ii)(I) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services), (II) has competency in oral and written English, (III) will be able to adapt to the educational and cultural environment in which he will be receiving his education or training, and (IV) has adequate prior education and training to participate satisfactorily in the program for which he is coming to the United States. For the purposes of this subparagraph, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners examination if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

(C) The alien has made a commitment to return to the country of his nationality or last residence upon completion of the education or training for which he is coming to the United States, and the government of the country of his nationality or last residence has provided a written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien will acquire in such education or training.

(D) The duration of the alien's participation in the program of graduate medical education or training for which the alien is coming to the United States is limited to the time typically required to complete such program, as determined by the Director of the International Communication Agency at the time of the alien's entry into the United States, based on criteria which are established in coordination with the Secretary of Health and Human Services and which take into consideration the published requirements of the medical specialty board which administers such education or training program; except that—

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[62] § 5(e) of the Immigration and Nationality Act Amendments of 1981 (Pub. L. 97-116, 95 Stat. 1614), provides as follows:

(e) The Secretary of Health and Human Services, after consultation with the Attorney General, the Secretary of State, and the Director of the International Communication Agency, shall evaluate the effectiveness and value to foreign nations and to the United States of exchange programs for the graduate medical education or training of aliens who are graduates of foreign medical schools, and shall report to Congress, not later than January 15, 1983, on such evaluation and include in such report such recommendations for changes in legislation and regulations as may be appropriate.

(i) such duration is further limited to seven years unless the alien has demonstrated to the satisfaction of the Director that the country to which the alien will return at the end of such specialty education or training has an exceptional need for an individual trained in such specialty, and

(ii) the alien may, once and not later than two years after the date the alien enters the United States as an exchange visitor or acquires exchange visitor status, change the alien's designated program of graduate medical education or training if the Director approves the change and if a commitment and written assurance with respect to the alien's new program have been provided in accordance with subparagraph (C).

(E) The alien furnishes the Attorney General each year with an affidavit (in such form as the Attorney General shall prescribe) that attests that the alien (i) is in good standing in the program of graduate medical education or training in which the alien is participating, and (ii) will return to the country of his nationality or last residence upon completion of the education or training for which he came to the United States.

(2)(A) Except as provided in subparagraph (B), the requirements of subparagraphs (A) and (B)(iii)(I) of paragraph (1) shall not apply between the effective date of this subsection and December 31, 1983, to any alien who seeks to come to the United States to participate in an accredited program of graduate medical education or training if (i) the Secretary of Health and Human Services determines, on a case-by-case basis, that there would be a substantial disruption in the health services provided in such program because such alien was not permitted, because of his failure to meet such requirements, to enter the United States to participate in such program, and (ii) the program has a comprehensive plan to reduce reliance on alien physicians, which plan the Secretary of Health and Human Services finds, in accordance with criteria published by the Secretary, to be satisfactory and to include the following:

(I) A detailed discussion of specific problems that the program anticipates without such waiver and of the alternative resources and methods (including use of physician extenders and other paraprofessionals) that have been considered and have been and will be applied to reduce such disruption in the delivery of health services.

(II) A detailed description of those changes of the program (including improvement of educational and medical services training) which have been considered and which have been or will be applied which would make the program more attractive to graduates of medical schools who are citizens of the United States.

(III) A detailed description of the recruiting efforts which have been and will be undertaken to attract graduates of medical schools who are citizens of the United States.

(IV) A detailed description and analysis of how the program, on a year-by-year basis, has phased down and will phase down its dependence upon aliens who are graduates of foreign medical schools so that the program will not be dependent upon the admission to the program of any additional such aliens after December 31, 1983.

(B) In the administration of this subsection, the Attorney General shall take such action as may be necessary to ensure that the total number of aliens participating (at any time) in programs described in subparagraph (A) does not, because of the exemption provided by such subparagraph, exceed the total number of aliens participating in such programs on the effective date of this subsection. The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall (i) monitor the issuance of waivers under subparagraph (A) and the needs of the communities (with respect to which such waivers are issued) to assure that quality medical care is provided, and (ii) review each program with such a waiver to assure that the plan described in subparagraph (A)(ii) is being carried out and that participants in such program are being provided appropriate supervision in their medical education and training.

(C) The Secretary of Health and Human Services, in coordination with the Attorney General and the Director of the International Communication Agency, shall report to the Congress at the beginning of fiscal years 1982 and 1983 on the distribution (by geography, nationality, and medical specialty or field of practice) of foreign medical graduates in the United States who have received a waiver under subparagraph (A), including an analysis of the dependence of the various communities on aliens who are in medical education or training programs in the various medical specialties.

(3) The Director of the International Communication Agency annually shall transmit to the Congress a report on aliens who have submitted affidavits described in paragraph (1)(E), and shall include in such report the name and address of each such alien, the medical education or training program in which such alien is participating, and the status of such alien in that program.

(k) Any alien, excludable from the United States under paragraph (14), (20), or (21) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that exclusion was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign contiguous territory, before the time of the immigrant's application for admission.

(l)(1) [63] The requirement of paragraph (26)(B) of subsection (a) of this section may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

(A) an adequate arrival and departure control system has been developed on Guam, and

(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

(2) An alien may not be provided a waiver under this subsection unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(3) If adequate appropriated funds to carry out this subsection are not otherwise available, the Attorney General is authorized to accept from the Government of Guam such funds as may be tendered to cover all or any part of the cost of administration and enforcement of this subsection.

ADMISSION OF CERTAIN ALIENS ON GIVING BOND

SEC. 213. [8 U.S.C. 1183] An alien excludable under paragraph (7) or (15) of section 212(a) may, if otherwise admissible, be admitted in the discretion of the Attorney General upon the giving of a suitable and proper bond or undertaking approved by the Attorney General, in such amount and containing such conditions as he may prescribe, to the United States, and to all States, territories, counties, towns, municipalities, and districts thereof holding the United States and all States, territories, counties, towns, municipalities, and districts thereof harmless against such alien becoming a public charge. Such bond or undertaking shall terminate upon the permanent departure from the United States, the naturalization, or the death of such alien, and any sums or other security held to secure performance thereof, except to the extent forfeited for violation of the terms thereof, shall be returned to the person by whom furnished, or to his legal representatives. Suit may be brought thereon in the name and by the proper law officers of the United States for the use of the United States, or of any State, territory, district, county, town, or municipality in which such alien becomes a public charge.

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[63] Subsection (l) was amended by subsection (a) of § 14 of Pub. L. 99-396 (100 Stat. 842, Aug. 27, 1986). Subsections (b) and (c) of that section read as follows:

(b) After consultation with the Secretary of State, the Secretary of the Interior, and the Governor of Guam and within ninety days after the date of the enactment of this Act [viz. by November 26, 1986], the Attorney General shall issue regulations governing the admission, detention, and travel of nonimmigrant aliens pursuant to the visa waiver authorized by the amendment made by subsection (a).

(c) Each year the Attorney General shall submit a report on the implementation of section 212(l) of the Immigration and Nationality Act to the Committees on the Judiciary and Interior and Insular Affairs of the House of Representatives and the Committees on the Judiciary and Energy and Natural Resources of the Senate.

Previously, subsection (l) had been added by § 602 of the Territory Economic Development Act (Pub. L. 98-454, 98 Stat. 1737), and read as follows:

(l) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determined that—

(1) Guam has developed an adequate arrival and departure control system, and

(2) such a waiver does not represent a threat to the welfare, safety, or security of the United States.

ADMISSION OF NONIMMIGRANTS

SEC. 214. [8 U.S.C. 1184] (a) The admission to the United States of any alien as a nonimmigrant shall be for such time and under such conditions as the Attorney General may by regulations prescribe, including when he deems necessary the giving of a bond with sufficient surety in such sum and containing such conditions as the Attorney General shall prescribe, to insure that at the expiration of such time or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248, such alien will depart from the United States. No alien admitted to Guam without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam. No alien admitted to the United States without a visa pursuant to section 217 may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.

(b) Every alien shall be presumed to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for a visa, and the immigration officers, at the time of application for admission, that he is entitled to a nonimmigrant status under section 101(a)(15). An alien who is an officer or employee of any foreign government or of any international organization entitled to enjoy privileges, exemptions, and immunities under the International Organizations Immunities Act [22 U.S.C. 288, note], or an alien who is the attendant, servant, employee, or member of the immediate family of any such alien shall not be entitled to apply for or receive an immigrant visa, or to enter the United States as an immigrant unless he executes a written waiver in the same form and substance as is prescribed by section 247(b).

(c)[64] The question of importing any alien as a nonimmigrant under section 101(a)(15)(H) or (L) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant. For purposes of this subsection with respect to nonimmigrants described in section 101(a)(15)(H)(ii)(a), the term "appropriate agencies of Government" means the Department of Labor and includes the Department of Agriculture. The provisions of section 218 shall apply to the question of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii)(a).[65]

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[64] § 3 of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Pub. L. 97-271, Sept. 30, 1982, 96 Stat. 1159) provides as follows:

TERMINATION OF TEMPORARY WORKER PROGRAM IN THE VIRGIN ISLANDS

SEC. 3. Notwithstanding any other provision of law, on and after the date of the enactment of this Act the Attorney General shall not approve any petition filed under section 214(c) of the Act in the case of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act for employment in the Virgin Islands of the United States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.

(d) A visa shall not be issued under the provisions of section 101(a)(15)(K) until the consular officer has received a petition filed in the United States by the fiancée or fiancé of the applying alien and approved by the Attorney General. The petition shall be in such form and contain such information as the Attorney General shall, by regulation, prescribe. It shall be approved only after satisfactory evidence is submitted by the petitioner to establish that the parties have previously met in person within 2 years before the date of filing the petition[66], have a bona fide intention to marry, and are legally able and actually willing to conclude a valid marriage in the United States within a period of ninety days after the alien's arrival, except that the Attorney General in his discretion may waive the requirement that the parties have previously met in person. In the event the marriage with the petitioner does not occur within three months after the entry of the said alien and minor children, they shall be required to depart from the United States and upon failure to do so shall be deported in accordance with sections 242 and 243[67].

(e)[68] Notwithstanding any other provision of this Act, an alien who is a citizen of Canada and seeks to enter the United States under and pursuant to the provisions of Annex 1502.1 (United States of America), Part C—Professionals, of the United States-Canada Free-Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor.

[The provision corresponding to 8 U.S.C. 1184a is shown in footnote 8 on p. 7]

TRAVEL DOCUMENTATION OF ALIENS AND CITIZENS

SEC. 215. [8 U.S.C. 1185] (a) Unless otherwise ordered by the President, it shall be unlawful—

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[65] This sentence was added by § 301(b) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3411).

[66] The previous meeting requirement applies to petitions approved on or after Nov. 10, 1986, under § 3(d) of Immigration Marriage Fraud Amendments of 1986, Pub. L. 99-639.

[67] § 3(c) of the Immigration Marriage Fraud Amendments of 1986 (Pub. L. 99-639), struck out the following sentence, effective for aliens issued visas on or after Nov. 10, 1986: "In the event the marriage between the said alien and the petitioner shall occur within three months after the entry and they are found otherwise admissible, the Attorney General shall record the lawful admission for permanent residence of the alien and minor children as of the date of the payment of the required visa fees.".

[68] Subsection (e) was added by § 307(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Pub. L. 100-449, Sept. 28, 1988, 102 Stat. 1877). For provisions of Annex 1502.1, see Appendix VI, p. 353.

(1) for any alien to depart from or enter or attempt to depart from or enter the United States except under such reasonable rules, regulations, and orders, and subject to such limitations and exceptions as the President may prescribe;

(2) for any person to transport or attempt to transport from or into the United States another person with knowledge or reasonable cause to believe that the departure or entry of such other person is forbidden by this section;

(3) for any person knowingly to make any false statement in an application for permission to depart from or enter the United States with intent to induce or secure the granting of such permission either for himself or for another;

(4) for any person knowingly to furnish or attempt to furnish or assist in furnishing to another a permit or evidence of permission to depart or enter not issued and designed for such other person's use;

(5) for any person knowingly to use or attempt to use any permit or evidence of permission to depart or enter not issued and designed for his use;

(6) for any person to forge, counterfeit, mutilate, or alter, or cause or procure to be forged, counterfeited, mutilated, or altered, any permit or evidence of permission to depart from or enter the United States;

(7) for any person knowingly to use or attempt to use or furnish to another for use any false, forged, counterfeited, mutilated, or altered permit, or evidence of permission, or any permit or evidence of permission which, though originally valid, has become or been made void or invalid.

(b) Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, or attempt to depart from or enter, the United States unless he bears a valid passport.

(c) The term "United States" as used in this section includes the Canal Zone, and all territory and waters, continental or insular, subject to the jurisdiction of the United States. The term "person" as used in this section shall be deemed to mean any individual, partnership, association, company, or other incorporated body of individuals, or corporation, or body politic.

(d) Nothing in this section shall be construed to entitle an alien to whom a permit to enter the United States has been issued to enter the United States, if, upon arrival in the United States, he is found to be inadmissible under any of the provisions of this Act, or any other law, relating to the entry of aliens into the United States.

(e) The revocation of any rule, regulation, or order issued in pursuance of this section shall not prevent prosecution for any offense committed, or the imposition of any penalties or forfeitures, liability for which was incurred under this section prior to the revocation of such rule, regulation, or order.

(f) Passports, visas, reentry permits, and other documents required for entry under this Act may be considered as permits to enter for the purposes of this section.

CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS [69]

SEC. 216. [8 U.S.C. 1186a] (a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien spouse (as defined in subsection (g)(1)) and an alien son or daughter (as defined in subsection (g)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien spouse or alien son or daughter obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such a spouse, son, or daughter respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such a spouse, son, or daughter, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsections (c)(1).

(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such a spouse, son, or daughter.

(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING MARRIAGE IMPROPER.—

(1) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

(A) the qualifying marriage—

(i) was entered into for the purpose of procuring an alien's entry as an immigrant, or

(ii) has been judicially annulled or terminated, other than through the death of a spouse; or

(B) a fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien;

the Attorney General shall so notify the parties involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (or aliens) involved as of the date of the determination.

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[69] This section was inserted by § 2(a) of Pub. L. 99-639, Nov. 10, 1986, 100 Stat. 3537, as amended by § 6(a) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2616).

(2) Hearing in deportation proceeding.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

(c) Requirements of Timely Petition and Interview for Removal of Condition.—

(1) In general.—In order for the conditional basis established under subsection (a) for an alien spouse or an alien son or daughter to be removed—

(A) the alien spouse and the petitioning spouse (if not deceased) jointly must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

(B) in accordance with subsection (d)(3), the alien spouse and the petitioning spouse (if not deceased) must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

(2) Termination of permanent resident status for failure to file petition or have personal interview.—

(A) In general.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

(ii) unless there is good cause shown, the alien spouse and petitioning spouse fail to appear at the interview described in paragraph (1)(B),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

(B) Hearing in deportation proceeding.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

(3) Determination after petition and interview.—

(A) In general.—If—

(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

(ii) the alien spouse and petitioning spouse appear at the interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the interview, as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying marriage.

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the parties involved and shall remove the conditional basis of the parties effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the parties involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien spouse or an alien son or daughter as of the date of the determination.

(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying marriage.

(4) HARDSHIP WAIVER.—The Attorney General, in the Attorney General's discretion, may remove the conditional basis of the permanent resident status for an alien who fails to meet the requirements of paragraph (1) if the alien demonstrates that—

(A) extreme hardship would result if such alien is deported, or

(B) the qualifying marriage was entered into in good faith by the alien spouse, but the qualifying marriage has been terminated (other than through the death of the spouse) by the alien spouse for good cause and the alien was not at fault in failing to meet the requirements of paragraph (1).

In determining extreme hardship, the Attorney General shall consider circumstances occurring only during the period that the alien was admitted for permanent residence on a conditional basis.

(d) DETAILS OF PETITION AND INTERVIEW.—

(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain the following facts and information:

(A) STATEMENT OF PROPER MARRIAGE AND PETITIONING PROCESS.—The facts are that—

(i) the qualifying marriage—

(I) was entered into in accordance with the laws of the place where the marriage took place,

(II) has not been judicially annulled or terminated, other than through the death of a spouse, and

(III) was not entered into for the purpose of procuring an alien's entry as an immigrant; and

(ii) no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter.

(B) STATEMENT OF ADDITIONAL INFORMATION.—The information is a statement of—

(i) the actual residence of each party to the qualifying marriage since the date the alien spouse obtained permanent resident status on a conditional basis under subsection (a), and

(ii) the place of employment (if any) of each such party since such date, and the name of the employer of such party.

(2) PERIOD FOR FILING PETITION.—

(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

(f) TREATMENT OF CERTAIN WAIVERS.—In the case of an alien who has permanent residence status on a conditional basis under this section, if, in order to obtain such status, the alien obtained a waiver under subsection (h) or (i) of section 212 of certain grounds of exclusion, such waiver terminates upon the termination of such permanent residence status under this section.

(g) DEFINITIONS.—In this section:

(1) The term "alien spouse" means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise)—

(A) as an immediate relative (described in section 201(b)) as the spouse of a citizen of the United States,

(B) under section 214(d) as the fiancee or fiance of a citizen of the United States, or

(C) under section 203(a)(2) as the spouse of an alien lawfully admitted for permanent residence,

by virtue of a marriage which was entered into less than 24 months before the date the alien obtains such status by virtue of such marriage, but does not include such an alien who only obtains such status as a result of section 203(a)(8).

(2) The term "alien son or daughter" means an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the son or daughter of an individual through a qualifying marriage.

(3) The term "qualifying marriage" means the marriage described to in paragraph (1).

(4) The term "petitioning spouse" means the spouse of a qualifying marriage, other than the alien.

[For section 1186b of title 8, U.S. Code, (relating to Amerasian immigration) see § 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, shown in Appendix II. C., at p. 281]

VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS [70]

SEC. 217. [8 U.S.C. 1187] (a) ESTABLISHMENT OF PILOT PROGRAM.—The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this section referred to as the "pilot program") under which the requirement of paragraph (26)(B) of section 212(a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this section, in the case of an alien who meets the following requirements:

(1) SEEKING ENTRY AS TOURIST FOR 90 DAYS OR LESS.—The alien is applying for admission during the pilot program period (as defined in subsection (e)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding 90 days.

(2) NATIONAL OF PILOT PROGRAM COUNTRY.—The alien is a national of a country which—

(A) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

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[70] This section was inserted by § 313(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3435), as amended by § 2(p)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2613). For monitoring and reports on this section, see § 405 of IRCA (100 Stat. 3442), shown on p. 269 of this compilation.

(B) is designated as a pilot program country under subsection (c).

(3) Executes entry control and waiver forms.—The alien before the time of such admission—

(A) completes such immigration form as the Attorney General shall establish under subsection (b)(3), and

(B) executes a waiver of review and appeal described in subsection (b)(4).

(4) Round-trip ticket.—The alien has a round-trip, nontransferable transportation ticket which—

(A) is valid for a period of not less than one year,

(B) is nonrefundable except in the country in which issued or in the country of the alien's nationality or residence,

(C) is issued by a carrier which has entered into an agreement described in subsection (d), and

(D) guarantees transport of the alien out of the United States at the end of the alien's visit.

(5) Not a safety threat.—The alien has been determined not to represent a threat to the welfare, health, safety, or security of the United States.

(6) No previous violation.—If the alien previously was admitted without a visa under this section, the alien must not have failed to comply with the conditions of any previous admission as such a nonimmigrant.

(b) Conditions Before Pilot Program Can be Put Into Operation.—

(1) Prior notice to congress.—The pilot program may not be put into operation until the end of the 30-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in paragraph (2) is operational and effective and that the form described in paragraph (3) has been produced.

(2) Automated data arrival and departure system.—The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the pilot program.

(3) Visa waiver information form.—The Attorney General shall develop a form for use under the pilot program. Such form shall be consistent and compatible with the control system developed under paragraph (2). Such form shall provide for, among other items—

(A) a summary description of the conditions for excluding nonimmigrant visitors from the United States under section 212(a) and under the pilot program,

(B) a description of the conditions of entry with a waiver under the pilot program, including the limitation of such entry to 90 days and the consequences of failure to abide by such conditions, and

(C) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

(4) WAIVER OF RIGHTS.—An alien may not be provided a waiver under the pilot program unless the alien has waived any right—

(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States, or

(B) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

(1) UP TO 8 COUNTRIES.—The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot program countries for purposes of the pilot program.

(2) INITIAL QUALIFICATIONS.—For the initial period described in paragraph (4), a country may not be designated as a pilot program country unless the following requirements are met:

(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—For each fiscal year (within the pilot program period) after the initial period—

(A) CONTINUING QUALIFICATION.—In the case of a country which was a pilot program country in the previous fiscal year, a country may not be designated as a pilot program country unless the sum of—

(i) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

(B) NEW COUNTRIES.—In the case of another country, the country may not be designated as a pilot program country unless the following requirements are met:

(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 2 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 2.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

(4) INITIAL PERIOD.—For purposes of paragraphs (2) and (3), the term "initial period" means the period beginning at the end of the 30-day period described in subsection (b)(1) and ending on the last day of the first fiscal year which begins after such 30-day period.

(d) CARRIER AGREEMENTS.—

(1) IN GENERAL.—The agreement referred to in subsection (a)(4)(C) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under the pilot program—

(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the 90-day period described in subsection (a)(1)(A), and

(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under the pilot program.

(2) TERMINATION OF AGREEMENTS.—The Attorney General may terminate an agreement under paragraph (1) with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

(e) DEFINITION OF PILOT PROGRAM PERIOD.—For purposes of this section, the term "pilot program period" means the period beginning at the end of the 30-day period referred to in subsection (b)(1) and ending on the last day of the third fiscal year which begins after such 30-day period.

ADMISSION OF TEMPORARY H-2A WORKERS [71]

SEC. 218. [8 U.S.C. 1188] (a) CONDITIONS FOR APPROVAL OF H-2A PETITIONS.—(1) A petition to import an alien as an H-2A worker

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[71] This section was added by § 301(c) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3411), as amended by § 2(l)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2612). It applies to petitions and applications filed on or after June 1, 1987. For reports on implementation of this section, see § 403 of IRCA (100 Stat. 3441), shown on p. 268 of this compilation.

(as defined in subsection (i)(2)) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition, and

(B) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(2) The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

(b) CONDITIONS FOR DENIAL OF LABOR CERTIFICATION.—The Secretary of Labor may not issue a certification under subsection (a) with respect to an employer if the conditions described in that subsection are not met or if any of the following conditions are met:

(1) There is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification.

(2)(A) The employer during the previous two-year period employed H-2A workers and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer at any time during that period substantially violated a material term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers.

(B) No employer may be denied certification under subparagraph (A) for more than three years for any violation described in such subparagraph.

(3) The employer has not provided the Secretary with satisfactory assurances that if the employment for which the certification is sought is not covered by State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

(4) The Secretary determines that the employer has not made positive recruitment efforts within a multi-state region of traditional or expected labor supply where the Secretary finds that there are a significant number of qualified United States workers who, if recruited, would be willing to make themselves available for work at the time and place needed. Positive recruitment under this paragraph is in addition to, and shall be conducted within the same time period as, the circulation through the interstate employment service system of the employer's job offer. The obligation to engage in positive recruitment under this paragraph shall terminate on the date the H-2A workers depart for the employer's place of employment.

(c) SPECIAL RULES FOR CONSIDERATION OF APPLICATIONS.—The following rules shall apply in the case of the filing and consideration of an application for a labor certification under this section:

(1) Deadline for filing applications.—The Secretary of Labor may not require that the application be filed more than 60 days before the first date the employer requires the labor or services of the H–2A worker.

(2) Notice within seven days of deficiencies.—(A) The employer shall be notified in writing within seven days of the date of filing if the application does not meet the standards (other than that described in subsection (a)(1)(A)) for approval.

(B) If the application does not meet such standards, the notice shall include the reasons therefor and the Secretary shall provide an opportunity for the prompt resubmission of a modified application.

(3) Issuance of certification.—(A) The Secretary of Labor shall make, not later than 20 days before the date such labor or services are first required to be performed, the certification described in subsection (a)(1) if—

(i) the employer has complied with the criteria for certification (including criteria for the recruitment of eligible individuals as prescribed by the Secretary), and

(ii) the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have indicated their availability to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary.

In considering the question of whether a specific qualification is appropriate in a job offer, the Secretary shall apply the normal and accepted qualifications required by non-H–2A-employers in the same or comparable occupations and crops.

(B)(i) For a period of 3 years subsequent to the effective date of this section, labor certifications shall remain effective only if, from the time the foreign worker departs for the employer's place of employment, the employer will provide employment to any qualified United States worker who applies to the employer until 50 percent of the period of the work contract, under which the foreign worker who is in the job was hired, has elapsed. In addition, the employer will offer to provide benefits, wages and working conditions required pursuant to this section and regulations.

(ii) The requirement of clause (i) shall not apply to any employer who—

(I) did not, during any calendar quarter during the preceding calendar year, use more than 500 man-days of agricultural labor, as defined in section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)),[72]

(II) is not a member of an association which has petitioned for certification under this section for its members, and

(III) has not otherwise associated with other employers who are petitioning for temporary foreign workers under this section.

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[72] The definition in that section reads as follows: "'man-day' means any day during which an employee performs any agricultural labor for not less than one hour."

(iii) Six months before the end of the 3-year period described in clause (i), the Secretary of Labor shall consider the findings of the report mandated by section 403(a)(4)(D) of the Immigration Reform and Control Act of 1986[73] as well as other relevant materials, including evidence of benefits to United States workers and costs to employers, addressing the advisability of continuing a policy which requires an employer, as a condition for certification under this section, to continue to accept qualified, eligible United States workers for employment after the date the H-2A workers depart for work with the employer. The Secretary's review of such findings and materials shall lead to the issuance of findings in furtherance of the Congressional policy that aliens not be admitted under this section unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or service needed and that the employment of the aliens in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed. In the absence of the enactment of Federal legislation prior to three months before the end of the 3-year period described in clause (i) which addresses the subject matter of this subparagraph, the Secretary shall immediately publish the findings required by this clause, and shall promulgate, on an interim or final basis, regulations based on his findings which shall be effective no later than three years from the effective date of this section.

(iv) In complying with clause (i) of this subparagraph, an association shall be allowed to refer or transfer workers among its members: *Provided,* That for purposes of this section an association acting as an agent for its members shall not be considered a joint employer merely because of such referral or transfer.

(v) United States workers referred or transferred pursuant to clause (iv) of this subparagraph shall not be treated disparately.

(vi) An employer shall not be liable for payments under section 655.202(b)(6) of title 20, Code of Federal Regulations (or any successor regulation) with respect to an H-2A worker who is displaced due to compliance with the requirement of this subparagraph, if the Secretary of Labor certifies that the H-2A worker was displaced because of the employer's compliance with clause (i) of this subparagraph.

(vii)(I) No person or entity shall willfully and knowingly withhold domestic workers prior to the arrival of H-2A workers in order to force the hiring of domestic workers under clause (i).

(II) Upon the receipt of a complaint by an employer that a violation of subclause (I) has occurred the Secretary shall immediately investigate. He shall within 36 hours of the receipt of the complaint issue findings concerning the alleged violation. Where the Secretary finds that a violation has occurred, he shall immediately suspend the application of clause (i) of this subparagraph with respect to that certification for that date of need.

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[73] See p. 268 of this compilation.

(4) HOUSING.—Employers shall furnish housing in accordance with regulations. The employer shall be permitted at the employer's option to provide housing meeting applicable Federal standards for temporary labor camps or to secure housing which meets the local standards for rental and/or public accommodations or other substantially similar class of habitation: *Provided,* That in the absence of applicable local standards, State standards for rental and/or public accommodations or other substantially similar class of habitation shall be met: *Provided further,* That in the absence of applicable local or State standards, Federal temporary labor camp standards shall apply: *Provided further,* That the Secretary of Labor shall issue regulations which address the specific requirements of housing for employees principally engaged in the range production of livestock: *Provided further,* That when it is the prevailing practice in the area and occupation of intended employment to provide family housing, family housing shall be provided to workers with families who request it: *And provided further,* That nothing in this paragraph shall require an employer to provide or secure housing for workers who are not entitled to it under the temporary labor certification regulations in effect on June 1, 1986.

(d) ROLES OF AGRICULTURAL ASSOCIATIONS.—

(1) PERMITTING FILING BY AGRICULTURAL ASSOCIATIONS.—A petition to import an alien as a temporary agricultural worker, and an application for a labor certification with respect to such a worker, may be filed by an association of agricultural producers which use agricultural services.

(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association is a joint or sole employer of temporary agricultural workers, the certifications granted under this section to the association may be used for the certified job opportunities of any of its producer members and such workers may be transferred among its producer members to perform agricultural services of a temporary or seasonal nature for which the certifications were granted.

(3) TREATMENT OF VIOLATIONS.—

(A) MEMBER'S VIOLATION DOES NOT NECESSARILY DISQUALIFY ASSOCIATION OR OTHER MEMBERS.—If an individual producer member of a joint employer association is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the member, the denial shall apply only to that member of the association unless the Secretary determines that the association or other member participated in, had knowledge of, or reason to know of, the violation.

(B) ASSOCIATION'S VIOLATION DOES NOT NECESSARILY DISQUALIFY MEMBERS.—(i) If an association representing agricultural producers as a joint employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, the denial shall apply only to the association and does not apply to any individual producer member of the association unless the Secretary determines that the member participated in, had knowledge of, or reason to know of, the violation.

(ii) If an association of agricultural producers certified as a sole employer is determined to have committed an act that under subsection (b)(2) results in the denial of certification with respect to the association, no individual producer member of such association may be the beneficiary of the services of temporary alien agricultural workers admitted under this section in the commodity and occupation in which such aliens were employed by the association which was denied certification during the period such denial is in force, unless such producer member employs such aliens in the commodity and occupation in question directly or through an association which is a joint employer of such workers with the producer member.

(e) EXPEDITED ADMINISTRATIVE APPEALS OF CERTAIN DETERMINATIONS.—(1) Regulations shall provide for an expedited procedure for the review of a denial of certification under subsection (a)(1) or a revocation of such a certification or, at the applicant's request, for a de novo administrative hearing respecting the denial or revocation.

(2) The Secretary of Labor shall expeditiously, but in no case later than 72 hours after the time a new determination is requested, make a new determination on the request for certification in the case of an H-2A worker if able, willing, and qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified workers. If the employer asserts that any eligible individual who has been referred is not able, willing, or qualified, the burden of proof is on the employer to establish that the individual referred is not able, willing, or qualified because of employment-related reasons.

(f) VIOLATORS DISQUALIFIED FOR 5 YEARS.—An alien may not be admitted to the United States as a temporary agricultural worker if the alien was admitted to the United States as such a worker within the previous five-year period and the alien during that period violated a term or condition of such previous admission.

(g) AUTHORIZATIONS OF APPROPRIATIONS.—(1) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, $10,000,000 for the purposes—

(A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii)(a), and

(B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States.

(2) The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations,

as may be necessary to assure employer compliance with terms and conditions of employment under this section.

(3) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purpose of enabling the Secretary of Labor to make determinations and certifications under this section and under section 212(a)(14).

(4) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1987, such sums as may be necessary for the purposes of enabling the Secretary of Agriculture to carry out the Secretary's duties and responsibilities under this section.

(h) MISCELLANEOUS PROVISIONS.—(1) The Attorney General shall provide for such endorsement of entry and exit documents of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section and to provide notice for purposes of section 274A.

(2) The provisions of subsections (a) and (c) of section 214 and the provisions of this section preempt any State or local law regulating admissibility of nonimmigrant workers.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "eligible individual" means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(g)) with respect to that employment.

(2) The term "H-2A worker" means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

CHAPTER 3—ISSUANCE OF ENTRY DOCUMENTS

ISSUANCE OF VISAS

SEC. 221. [8 U.S.C. 1201] (a) Under the conditions hereinafter prescribed and subject to the limitations prescribed in this Act or regulations issued thereunder, a consular officer may issue (1) to an immigrant who has made proper application therefor, an immigrant visa which shall consist of the application provided for in section 222, visaed by such consular officer, and shall specify the foreign state, if any, to which the immigrant is charged, the immigrant's particular status under such foreign state, the preference, nonpreference, immediate relative, or special immigrant classification to which the alien is charged, the date on which the validity of the visa shall expire, and such additional information as may be required; and (2) to a nonimmigrant who has made proper application therefor, a nonimmigrant visa, which shall specify the classification under section 101(a)(15) of the nonimmigrant, the period during which the nonimmigrant visa shall be valid, and such additional information as may be required.

(b)[74] Each alien who applies for a visa shall be registered in connection with his application, and shall furnish copies of his photograph signed by him for such use as may be by regulations required. The requirements of this subsection may be waived in the discretion of the Secretary of State in the case of any alien who is within that class of nonimmigrants enumerated in sections 101(a)(15)(A), and 101(a)(15)(G), or in the case of any alien who is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof.

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[74] This subsection was amended by § 5(a)(2) of the Immigration and Nationality Act Amendments of 1988 (Pub. L. 99-653, Nov. 14, 1986), effective for applications for immigrant visas made, and visas issued, on or after November 14, 1986. The amendment deleted the fingerprint requirement previously stated in this subsection.

(c) An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business. A nonimmigrant visa shall be valid for such periods as shall be by regulations prescribed. In prescribing the period of validity of a nonimmigrant visa in the case of nationals of any foreign country who are eligible for such visas, the Secretary of State shall, insofar as practicable, accord to such nationals the same treatment upon a reciprocal basis as such foreign country accords to nationals of the United States who are within a similar class. An immigrant visa may be replaced under the original number during the fiscal year in which the original visa was issued for an immigrant who establishes to the satisfaction of the consular officer that he was unable to use the original immigrant visa during the period of its validity because of reasons beyond his control and for which he was not responsible: *Provided,* That the immigrant is found by the consular officer to be eligible for an immigrant visa and the immigrant pays again the statutory fees for an application and an immigrant visa.

(d) Prior to the issuance of an immigrant visa to any alien, the consular officer shall require such alien to submit to a physical and mental examination in accordance with such regulations as may be prescribed. Prior to the issuance of a nonimmigrant visa to any alien, the consular officer may require such alien to submit to a physical or mental examination, or both, if in his opinion such examination is necessary to ascertain whether such alien is eligible to receive a visa.

(e) Each immigrant shall surrender his immigrant visa to the immigration officer at the port of entry, who shall endorse on the visa the date and the port of arrival, the identity of the vessel or other means of transportation by which the immigrant arrived, and such other endorsements as may be by regulations required.

(f) Each nonimmigrant shall present or surrender to the immigration officer at the port of entry such documents as may be by regulation required. In the case of an alien crewman not in possession of any individual documents other than a passport and until such time as it becomes practicable to issue individual documents, such alien crewman may be admitted, subject to the provisions of this title, if his name appears in the crew list of the vessel or aircraft on which he arrives and the crew list is visaed by a consular officer, but the consular officer shall have the right to exclude any alien crewman from the crew list visa.

(g) No visa or other documentation shall be issued to an alien if (1) it appears to the consular officer, from statements in the application, or in the papers submitted therewith, that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law, (2) the application fails to comply with the provisions of this Act, or the regulations issued thereunder, or (3) the consular officer knows or has reason to believe that such alien is ineligible to receive a visa or such other documentation under section 212, or any other provision of law: *Provided,* That a visa or other documentation may be issued to an alien who is within the purview of section 212(a)(7), or section 212(a)(15), if such alien is otherwise entitled to receive a visa or other documentation, upon receipt of notice by the consular officer from the Attorney General of the giving of a bond or undertaking providing indemnity as in the case of aliens admitted under section 213: *Provided further,* That a visa may be issued to an alien defined in section 101(a)(15) (B) or (F), if such alien is otherwise entitled to receive a visa, upon receipt of a notice by the consular officer from the Attorney General of the giving of a bond with sufficient surety in such sum and containing such conditions as the consular officer shall prescribe, to insure that at the expiration of the time for which such alien has been admitted by the Attorney General, as provided in section 214(a), or upon failure to maintain the status under which he was admitted, or to maintain any status subsequently acquired under section 248 of the Act, such alien will depart from the United States.

(h) Nothing in this Act shall be construed to entitle any alien, to whom a visa or other documentation has been issued, to enter the United States, if, upon arrival at a port of entry in the United States, he is found to be inadmissible under this Act, or any other provision of law. The substance of this subsection shall appear upon every visa application.

(i) After the issuance of a visa or other documentation to any alien, the consular officer or the Secretary of State may at any time, in his discretion, revoke such visa or other documentation. Notice of such revocation shall be communicated to the Attorney General, and such revocation shall invalidate the visa or other documentation from the date of issuance: *Provided,* That carriers or transportation companies, and masters, commanding officers, agents, owners, charterers, or consignees, shall not be penalized under section 273(b) for action taken in reliance on such visas or other documentation, unless they received due notice of such revocation prior to the alien's embarkation.

APPLICATIONS FOR VISAS

SEC. 222. [8 U.S.C. 1202] (a) Every alien applying for an immigrant visa and for alien registration shall make application therefor in such form and manner and at such place as shall be by regulations prescribed. [75] In the application the immigrant shall state

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[75] Note that § 6039E(a)(2) of the Internal Revenue Code of 1986 (inserted by § 1234(a) of the Tax Reform Act of 1986, Pub. L. 99-514) requires the application to include the taxpayer identi-

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his full and true name, and any other name which he has used or by which he has been known; age and sex; the date and place of his birth; present address and places of previous residence; whether married or single, and the names and places of residence of spouse and children, if any; calling or occupation; personal description (including height, complexion, color of hair and eyes, and marks of identification); languages he can speak, read, or write; names and addresses of parents, and if neither parent living, then the name and address of his next of kin in the country from which he comes; port of entry into the United States; final destination, if any, beyond the port of entry; whether he has a ticket through to such final destination; whether going to join a relative or friend, and, if so, the name and complete address of such relative or friend; the purpose for which he is going to the United States; the length of time he intends to remain in the United States; whether or not he intends to remain in the United States permanently; whether he was ever arrested, convicted or was ever in prison or almshouse; whether he has ever been the beneficiary of a pardon or an amnesty; whether he has ever been treated in an institution or hospital or other place for insanity or other mental disease; if he claims to be an immediate relative within the meaning of section 201(b) or a preference or special immigrant, the facts on which he bases such claim; whether or not he is a member of any class of individuals excluded from admission into the United States, or whether he claims to be exempt from exclusion under the immigration laws; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(b) Every alien applying for an immigrant visa shall present a valid unexpired passport or other suitable travel document, or document of identity and nationality, if such document is required under the regulations issued by the Secretary of State. The immigrant shall furnish to the consular officer with his application a copy of a certification by the appropriate police authorities stating what their records show concerning the immigrant; a certified copy of any existing prison record, military record, and record of his birth; and a certified copy of all other records or documents concerning him or his case which may be required by the consular officer. The copy of each document so furnished shall be permanently attached to the application and become a part thereof. In the event that the immigrant establishes to the satisfaction of the consular officer that any document or record required by this subsection is unobtainable, the consular officer may permit the immigrant to submit in lieu of such document or record other satisfactory evidence of the fact to which such document or record would, if obtainable, pertain.

(c) Every alien applying for a nonimmigrant visa and for alien registration shall make application therefor in such form and manner as shall be by regulations prescribed. In the application the alien shall state his full and true name, the date and place of

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fication number (if any) of the applicant and certain other information; this is effective for applications submitted after Dec. 31, 1987 (or, if earlier, the effective date of initial regulations to carry out that section).

birth, his nationality, the purpose and length of his intended stay in the United States; personal description (including height, complexion, color of hair and eyes, and marks of identification); his marital status; and such additional information necessary to the identification of the applicant and the enforcement of the immigration and nationality laws as may be by regulations prescribed.

(d) Every alien applying for a nonimmigrant visa and alien registration shall furnish to the consular officer, with his application, a certified copy of such documents pertaining to him as may be by regulations required.

(e) Except as may be otherwise prescribed by regulations, each application required by this section shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer. The application for an immigrant visa, when visaed by the consular officer, shall become the immigrant visa. The application for a nonimmigrant visa or other documentation as a nonimmigrant shall be disposed of as may be by regulations prescribed. The issuance of a nonimmigrant visa shall, except as may be otherwise by regulations prescribed, be evidenced by a stamp placed by the consular officer in the alien's passport.

(f) [76] The records of the Department of State and of diplomatic and consular offices of the United States pertaining to the issuance or refusal of visas or permits to enter the United States shall be considered confidential and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality, and other laws of the United States, except that in the discretion of the Secretary of State certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interest of the ends of justice in a case pending before the court.

REENTRY PERMITS

SEC. 223. [8 U.S.C. 1203] (a)(1) Any alien lawfully admitted for permanent residence, or (2) any alien lawfully admitted to the United States pursuant to clause 6 of section 3 of the Immigration Act of 1924, between July 1, 1924, and July 5, 1932, both dates inclusive, who intends to depart temporarily from the United States may make application to the Attorney General for a permit to reenter the United States, stating the length of his intended absence or absences, and the reasons therefor. Such application shall be made under oath, and shall be in such form, contain such information, and be accompanied by such photographs of the applicant as may be by regulations prescribed.

(b) If the Attorney General finds (1) that the applicant under subsection (a)(1) has been lawfully admitted to the United States for permanent residence, or that the applicant under subsection (a)(2) has since admission maintained the status required of him at the time of his admission and such applicant desires to visit abroad and to return to the United States to resume the status existing at the time of his departure for such visit, (2) that the application is made in good faith, and (3) that the alien's proposed departure from the United States would not be contrary to the interests of the United States, the Attorney General may, in his discretion, issue the permit, which shall be valid for not more than two years from the date of issuance and shall not be renewable. The permit shall be in such form as shall be by regulations prescribed for the complete identification of the alien.

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[76] The Department of State has cited this provision as the basis for the exemption of visa records from disclosure under section 552(b)(3) of title 5, United States Code (commonly known as the Freedom of Information Act).

(c) During the period of validity, such permit may be used by the alien in making one or more applications for reentry into the United States.

(d) Upon the return of the alien to the United States the permit shall be presented to the immigration officer at the port of entry, and upon the expiration of its validity, the permit shall be surrendered to the Service.

(e) A permit issued under this section in the possession of the person to whom issued, shall be accepted in lieu of any visa which otherwise would be required from such person under this Act. Otherwise a permit issued under this section shall have no effect under the immigration laws except to show that the alien to whom it was issued is returning from a temporary visit abroad; but nothing in this section shall be construed as making such permit the exclusive means of establishing that the alien is so returning.

IMMEDIATE RELATIVE AND SPECIAL IMMIGRANT VISAS

SEC. 224. [8 U.S.C. 1204] A consular officer may, subject to the limitations provided in section 221, issue an immigrant visa to a special immigrant or immediate relative as such upon satisfactory proof, under regulations prescribed under this Act, that the applicant is entitled to special immigrant or immediate relative status.

CHAPTER 4—PROVISIONS RELATING TO ENTRY AND EXCLUSION

LISTS OF ALIEN AND CITIZEN PASSENGERS ARRIVING OR DEPARTING; RECORD OF RESIDENT ALIENS AND CITIZENS LEAVING PERMANENTLY FOR FOREIGN COUNTRY

SEC. 231. [8 U.S.C. 1221] (a) Upon the arrival of any person by water or by air at any port within the United States from any place outside the United States,[77] it shall be the duty of the master or commanding officer, or authorized agent, owner, or consignee of the vessel or aircraft, having any such person on board to deliver to the immigration officers at the port of arrival typewritten or printed lists or manifests of the persons on board such vessel or aircraft. Such lists or manifests shall be prepared at such time, be in such form and shall contain such information as the Attorney General shall prescribe by regulation as being necessary for the identification of the persons transported and for the enforcement of the immigration laws. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person arriving by air on a trip originating in foreign contiguous territory, except (with respect to such arrivals by air) as may be required by regulations issued pursuant to section 239.

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[77] Section 305(i) of the Rail Passenger Service Act (45 U.S.C. 545(i)) requires the Attorney General to cooperate with Amtrak in providing en route immigration procedures aboard trains operated in international intercity rail passenger service in a manner convenient to passengers and resulting in the most rapid possible transit of such service.

(b) It shall be the duty of the master or commanding officer or authorized agent of every vessel or aircraft taking passengers on board at any port of the United States, who are destined to any place outside the United States, to file with the immigration officers before departure from such port a list of all such persons taken on board. Such list shall be in such form, contain such information, and be accompanied by such documents, as the Attorney General shall prescribe by regulation as necessary for the identification of the persons so transported and for the enforcement of the immigration laws. No master or commanding officer of any such vessel or aircraft shall be granted clearance papers for his vessel or aircraft until he or the authorized agent has deposited such list or lists and accompanying documents with the immigration officer at such port and made oath that they are full and complete as to the information required to be contained therein, except that in the case of vessels or aircraft which the Attorney General determines are making regular trips to ports of the United States, the Attorney General may, when expedient, arrange for the delivery of lists of outgoing persons at a later date. This subsection shall not require the master or commanding officer, or authorized agent, owner, or consignee of a vessel or aircraft to furnish a list or manifest relating (1) to an alien crewman or (2) to any other person departing by air on a trip originating in the United States who is destined to foreign contiguous territory, except (with respect to such departure by air) as may be required by regulations issued pursuant to section 239.

(c) The Attorney General may authorize immigration officers to record the following information regarding every resident person leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Names, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen or national, the facts on which claim to that status is based.

(d) If it shall appear to the satisfaction of the Attorney General that the master or commanding officer, owner, or consignee of any vessel or aircraft, or the agent of any transportation line, as the case may be, has refused or failed to deliver any list or manifest required by subsection (a) or (b), or that the list or manifest delivered is not accurate and full, such master or commanding officer, owner, or consignee, or agent, as the case may be, shall pay to the collector of customs at the port of arrival or departure the sum of $10 for each person concerning whom such accurate and full list or manifest is not furnished, or concerning whom the manifest or list is not prepared and sworn to as prescribed by this section or by regulations issued pursuant thereto. No vessel or aircraft shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

(e) The Attorney General is authorized to prescribe the circumstances and conditions under which the list or manifest requirements of subsections (a) and (b) may be waived.

DETENTION OF ALIENS FOR OBSERVATION AND EXAMINATION

Sec. 232. [8 U.S.C. 1222] For the purpose of determining whether aliens (including alien crewmen) arriving at ports of the United States belong to any of the classes excluded by this Act, by reason of being afflicted with any of the diseases or mental or physical defects or disabilities set forth in section 212(a), or whenever the Attorney General has received information showing that any aliens are coming from a country or have embarked at a place where any of such diseases are prevalent or epidemic, such aliens shall be detained by the Attorney General [78] for a sufficient time to enable the immigration officers and medical officers to subject such aliens to observation and an examination sufficient to determine whether or not they belong to the excluded classes.

[TEMPORARY REMOVAL FOR EXAMINATION UPON ARRIVAL]

[Sec. 233.[79]]

PHYSICAL AND MENTAL EXAMINATION

Sec. 234. [8 U.S.C. 1224] The physical and mental examination of arriving aliens (including alien crewmen) shall be made by medical officers of the United States Public Health Service, who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the special inquiry officers, any physical and mental defect or disease observed by such medical officers in any such alien. If medical officers of the United States Public Health Service are not available, civil surgeons of not less than four years' professional experience may be employed for such service upon such terms as may be prescribed by the Attorney General. Aliens (including alien crewmen) arriving at ports of the United States shall be examined by at least one such medical officer or civil surgeon under such administrative regulations as the Attorney General may prescribe, and under medical regulations prepared by the Secretary of Health and Human Services. Medical officers of the United States Public Health Service who have had special training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at such ports of entry as the Attorney General may designate, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens who it is suspected may be excludable under paragraphs (1), (2), (3), (4), or (5) of section 212(a), and the services of interpreters shall be provided for such examination. Any alien certified under paragraphs (1), (2), (3), (4), or (5) of section 212(a) may appeal to a board of medical officers of the United States Public Health Service, which shall be convened by the Secretary of Health and Human Services, and any such alien may introduce before such board one expert medical witness at his own cost and expense.

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[78] § 206(a) of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Pub. L. 99–500, Oct. 18, 1986, 100 Stat. 1783–56), as amended by § 4(b) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2615) struck "on board the vessel or at the airport of arrival of the aircraft bringing them, unless the Attorney General directs their detention in a United States immigration station or other place specified by him at the expense of such vessel or aircraft except as otherwise provided in this Act, as circumstances may require or justify," and inserted "by the Attorney General".

[79] Section 233, relating to temporary removal for examination upon arrival, was repealed by § 206 of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Pub. L. 99–500, Oct. 18, 1986, 100 Stat. 1783–56).

INSPECTION BY IMMIGRATION OFFICERS

SEC. 235. **[**8 U.S.C. 1225**]** (a) The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to, or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe.[80] Immigration officers are hereby authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 212. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

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[80] Under regulations, 8 C.F.R. § 235.5, the Attorney General has provided for preinspection and preclearance of travelers from Guam, Puerto Rico, the Virgin Islands, Canada, Mexico, and other countries. However, § 208 of the Department of Justice Appropriation Act, 1987 (as contained in § 101(b) of Pub. L. 99-500) provides as follows, with subsection (a) repealed by § 507 of the Supplemental Appropriations Act, 1987 (Pub. L. 100-71, 101 Stat. 472, July 11, 1987):

SEC. 208. **[**(a) None of the funds appropriated or otherwise made available in this title may be available for the performance of any pre-inspection activities by the Immigration and Naturalization Service (1) at Shannon International Airport in Ireland or (2) at Gander Airport in Newfoundland.**]**

(b) The General Accounting Office shall conduct a comprehensive analysis of the trial pre-inspection program conducted by the Immigration and Naturalization Service at Shannon International Airport from July 1, 1986 to October 31, 1986, and shall issue a report to Congress by April 30, 1987. The report shall include an evaluation of the economic impact on American airports and of whether pre-inspection is a cost-effective means of facilitating international air travel and enhancing law enforcement.

(b) Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 273(d), who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

(c) Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under paragraph (27), (28), or (29) of section 212(a) shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

EXCLUSIONS OF ALIENS

Sec. 236. [8 U.S.C. 1226] (a) A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have authority in any case to determine whether an arriving alien who has been detained for further inquiry under section 235 shall be allowed to enter or shall be excluded and deported. The determination of such special inquiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 235 and 287(b), and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

(b) From a decision of a special inquiry officer excluding an alien, such alien may take a timely appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 235(c). From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 235(c) such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

(c) Except as provided in subsections (b) or (d), in every case where an alien is excluded from admission into the United States, under this Act or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

(d) If a medical officer or civil surgeon or board of medical officers has certified under section 234 that an alien is afflicted with a disease specified in section 212(a)(6), or with any mental disease, defect, or disability which would bring such alien within any of the classes excluded from admission to the United States under paragraphs (1), (2), (3), (4), or (5) of section 212(a), the decision of the special inquiry officer shall be based solely upon such certification. No alien shall have a right to appeal from such an excluding decision of a special inquiry officer. If an alien is excluded by a special inquiry officer because of the existence of a physical disease, defect, or disability, other than one specified in section 212(a)(6), the alien may appeal from the excluding decision in accordance with subsection (b) of this section, and the provisions of section 213 may be invoked.

IMMEDIATE DEPORTATION OF ALIENS EXCLUDED FROM ADMISSION OR ENTERING IN VIOLATION OF LAW

SEC. 237. [8 U.S.C. 1227] (a)(1) Any alien (other than an alien crewman) arriving in the United States who is excluded under this Act, shall be immediately deported, in accommodations of the same class in which he arrived, unless the Attorney General, in an individual case, in his discretion, concludes that immediate deportation is not practicable or proper. Deportation shall be to the country in which the alien boarded the vessel or aircraft on which he arrived in the United States, unless the alien boarded such vessel or aircraft in foreign territory contiguous to the United States or in any island adjacent thereto or adjacent to the United States and the alien is not a native, citizen, subject, or national of, or does not have a residence in, such foreign contiguous territory or adjacent island, in which case the deportation shall instead be to the country in which is located the port at which the alien embarked for such foreign contiguous territory or adjacent island. The cost of the maintenance including detention expenses and expenses incident to detention of any such alien while he is being detained, shall be borne by the owner or owners of the vessel or aircraft on which he arrived, except that the cost of maintenance (including detention expenses and expenses incident to detention while the alien is being detained prior to the time he is offered for deportation to the transportation line which brought him to the United States) shall not be assessed against the owner or owners of such vessel or aircraft if (A) the alien was in possession of a valid, unexpired immigrant visa, or (B) the alien (other than an alien crewman) was in possession of a valid, unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (i) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (ii) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if the owner or owners of such vessel or aircraft established to the satisfaction of the Attorney General that the ground of exclusion could not have been ascertained by the exercise of due diligence prior to the alien's embarkation, or (C) the person claimed United States nationality or citizenship and was in possession of an unexpired United States passport issued to him by competent authority.

(2) If the government of the country designated in paragraph (1) will not accept the alien into its territory, the alien's deportation shall be directed by the Attorney General, in his discretion and

without necessarily giving any priority or preference because of their order as herein set forth, either to—

(A) the country of which the alien is a subject, citizen, or national;

(B) the country in which he was born;

(C) the country in which he has a residence; or

(D) any country which is willing to accept the alien into its territory, if deportation to any of the foregoing countries is impracticable, inadvisable, or impossible.

(b) It shall be unlawful for any master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft (1) to refuse to receive any alien (other than an alien crewman), ordered deported under this section back on board such vessel or aircraft or another vessel or aircraft owned or operated by the same interests; (2) to fail to detain any alien (other than an alien crewman) on board any such vessel or at the airport of arrival of the aircraft when required by this Act or if so ordered by an immigration officer, or to fail or refuse to deliver him for medical or other inspection, or for further medical or other inspection, as and when so ordered by such officer; (3) to refuse or fail to remove him from the United States to the country to which his deportation has been directed; (4) to fail to pay the cost of his maintenance while being detained as required by this section; (5) to take any fee, deposit, or consideration on a contingent basis to be kept or returned in case the alien is landed or excluded; or (6) knowingly to bring to the United States any alien (other than an alien crewman) excluded or arrested and deported under any provision of law until such alien may be lawfully entitled to reapply for admission to the United States. If it shall appear to the satisfaction of the Attorney General that any such master, commanding officer, purser, person in charge, agent, owner, or consignee of any vessel or aircraft has violated any of the provisions of this section, such master, commanding officer, purser, person in charge, agent, owner, or consignee shall pay to the district director of customs of the district in which port of arrival is situated or in which any vessel or aircraft of the line may be found, the sum of $300 for each violation. No such vessel or aircraft shall have clearance from any port of the United States while any such fine is unpaid or while the question of liability to pay any such fine is being determined, nor shall any such fine be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the district director of customs of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such fine.

(c) An alien shall be deported on a vessel or aircraft owned by the same person who owns the vessel or aircraft on which the alien arrived in the United States, unless it is impracticable to so deport the alien within a reasonable time. The transportation expense of the alien's deportation shall be borne by the owner or owners of the vessel or aircraft on which the alien arrived. If the deportation is effected on a vessel or aircraft not owned by such owner or owners, the transportation expense of the alien's deportation may be paid from the appropriation for the enforcement of this Act and recovered by civil suit from any owner, agent, or consignee of the vessel or aircraft on which the alien arrived.

(d) The Attorney General, under such conditions as are by regulations prescribed, may stay the deportation of any alien deportable under this section, if in his judgment the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against any provision of this Act or other laws of the United States. The cost of maintenance of any person so detained resulting from a stay of deportation under this subsection and a witness fee in the sum of $1 per day for each day such person is so detained may be paid from the appropriation for the enforcement of this title. Such alien may be released under bond in the penalty of not less than $500 with security approved by the Attorney General on condition that such alien shall be produced when required as a witness and for deportation, and on such other conditions as the Attorney General may prescribe.

(e) Upon the certificate of an examining medical officer to the effect that an alien ordered to be excluded and deported under this section is helpless from sickness or mental and physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by the alien ordered excluded and deported, such accompanying alien may also be excluded and deported, and the master, commanding officer, agent, owner, or consignee of the vessel or aircraft in which such alien and accompanying alien arrived in the United States shall be required to return the accompanying alien in the same manner as other aliens denied admission and ordered deported under this section.

ENTRY THROUGH OR FROM FOREIGN CONTIGUOUS TERRITORY AND ADJACENT ISLANDS; LANDING STATIONS

SEC. 238. [8 U.S.C. 1228] (a) The Attorney General shall have power to enter into contracts with transportation lines for the entry and inspection of aliens coming to the United States from foreign contiguous territory or from adjacent islands. No such transportation line shall be allowed to land any such alien in the United States until and unless it has entered into any such contracts which may be required by the Attorney General.

(b) Every transportation line engaged in carrying alien passengers for hire to the United States from foreign contiguous territory or from adjacent islands shall provide and maintain at its expense suitable landing stations, approved by the Attorney General, conveniently located at the point or points of entry. No such transportation line shall be allowed to land any alien passengers in the United States until such landing stations are provided, and unless such stations are thereafter maintained to the satisfaction of the Attorney General.

(c) The Attorney General shall have power to enter into contracts including bonding agreements with transportation lines to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. Notwithstanding any other provision of this Act, such aliens may not have their classification changed under section 248.

(d) As used in this section the terms "transportation line" and "transportation company" include, but are not limited to, the owner, charterer, consignee, or authorized agent operating any vessel or aircraft bringing aliens to the United States, to foreign contiguous territory, or to adjacent islands.

DESIGNATION OF PORTS OF ENTRY FOR ALIENS ARRIVING BY CIVIL AIRCRAFT

SEC. 239. [8 U.S.C. 1229] The Attorney General is authorized (1) by regulation to designate as ports of entry for aliens arriving by aircraft any of the ports of entry for civil aircraft designated as such in accordance with law; (2) by regulation to provide such reasonable requirements for aircraft in civil air navigation with respect to giving notice of intention to land in advance of landing, or notice of landing, as shall be deemed necessary for purposes of administration and enforcement of this Act; and (3) by regulation to provide for the application to civil air navigation of the provisions of this Act where not expressly so provided in this Act to such extent and upon such conditions as he deems necessary. Any person who violates any regulation made under this section shall be subject to a civil penalty of $500 which may be remitted or mitigated by the Attorney General in accordance with such proceedings as the Attorney General shall by regulation prescribe.[81] In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft, and such aircraft may be libeled therefor in the appropriate United States court. The determination by the Attorney General and remission or mitigation of the civil penalty shall be final. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien upon the aircraft and may be collected by proceedings in rem which shall conform as nearly as may be to civil suits in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings against aircraft in any particular not otherwise provided by law. Any aircraft made subject to a lien by this section may be summarily seized by, and placed in the custody of such persons as the Attorney General may by regulation prescribe. The aircraft may be released from such custody upon deposit of such amount not exceeding $500 as the Attorney General may prescribe, or of a bond in such sum and with such sureties as the Attorney General may prescribe, conditioned upon the payment of the penalty which may be finally determined by the Attorney General.

RECORDS OF ADMISSION

SEC. 240. [8 U.S.C. 1230] (a) The Attorney General shall cause to be filed, as a record of admission of each immigrant, the immigrant visa required by section 221(e) to be surrendered at the port of entry by the arriving alien to an immigration officer.

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[81] See also 49 U.S.C. App. 1471(a)(2), relating to compromise of overlapping civil penalties by Secretary of Transportation.

(b) The Attorney General shall cause to be filed such record of the entry into the United States of each immigrant admitted under section 211(b) and of each nonimmigrant as the Attorney General deems necessary for the enforcement of the immigration laws.

CHAPTER 5—DEPORTATION; ADJUSTMENT OF STATUS

GENERAL CLASSES OF DEPORTABLE ALIENS

SEC. 241. [8 U.S.C. 1251] (a) [82] Any alien in the United States (including an alien crewman) shall, upon the order of the Attorney General, be deported who—

(1) at the time of entry was within one or more of the classes of aliens excludable by the law existing at the time of such entry;

(2) entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or in violation of any other law of the United States;

(3) hereafter, within five years after entry, becomes institutionalized at public expense because of mental disease, defect, or deficiency, unless the alien can show that such disease, defect, or deficiency did not exist prior to his admission to the United States;

(4)[(A)] [83] is convicted of a crime involving moral turpitude committed within five years after entry and either sentenced to confinement or confined therefor in a prison or corrective institution, for a year or more, or who at any time after entry is convicted of two crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of whether confined therefor and regardless of whether the convictions were in a single trial; or (B)[84] is convicted of an aggravated felony at any time after entry;

(5) has failed to comply with the provisions of section 265 unless he establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful, or has been convicted under section 266(c) of this title, or under section 36(c) of the Alien Registration Act, 1940,[85] or has been convicted of violating or conspiracy to violate any provision of the Act entitled "An Act to require the registration of certain persons employed by agencies to disseminate propaganda in the United States, and for other purposes", approved June 8, 1938, as amended [see 22 U.S.C. 618(c)], or has been convicted under section 1546 of title 18 of the United States Code;

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[82] See Appendix VII. B. 1., p. 357, for disqualification of certain deported aliens from certain benefits under title II of the Social Security Act.

[83] "(A)" designation omitted by error.

[84] Clause (B) was inserted by § 7344(a)(2) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988, 102 Stat. 4470), applicable to any alien who has been convicted, on or after November 18, 1988, of an aggravated felony.

[85] Section 36 of the Alien Registration Act, 1940 (8 U.S.C. 457) was repealed by the Act of June 27, 1952 (66 Stat. 280).

(6) is or at any time has been, after entry, a member of any of the following classes of aliens:

(A) Aliens who are anarchists;

(B) Aliens who advocate or teach, or who are members of or affiliated with any organization that advocates or teaches, opposition to all organized government;

(C) Aliens who are members of or affiliated with (i) the Communist Party of the United States; (ii) any other totalitarian party of the United States; (iii) the Communist Political Association; (iv) the Communist or any other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (v) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; or (vi) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt: *Provided,* That nothing in this paragraph, or in any other provision of this Act, shall be construed as declaring that the Communist Party does not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means;

(D) Aliens not within any of the other provisions of this paragraph who advocate the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who are members of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under the authority of such organization or paid for by the funds of, or funds furnished by, such organization;

(E) Aliens not within any of the other provisions of this paragraph, who are members of or affiliated with any organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950,[86] unless such aliens establish that they did not have knowledge or reason to believe at the time they became members of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist organization;

(F) Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage;

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[86] Section 7 of the Subversive Activities Control Act of 1950 (50 U.S.C. 786) was repealed by the Act of Jan. 2, 1968 (81 Stat. 766).

(G) Aliens who write or publish, or cause to be written or published, or who knowingly circulate, distribute, print, or display, or knowingly cause to be circulated, distributed, printed, published, or displayed, or who knowingly have in their possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating or teaching (i) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (ii) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (iii) the unlawful damage, injury, or destruction of property; or (iv) sabotage; or (v) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship;

(H) Aliens who are members of or affiliated with any organization that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in paragraph (G);

(7) is engaged, or at any time after entry has engaged, or at any time after entry has had a purpose to engage, in any of the activities described in paragraph (27) or (29) of section 212(a), unless the Attorney General is satisfied, in the case of any alien within category (C) of paragraph (29) of such section, that such alien did not have knowledge or reason to believe at the time such alien became a member of, affiliated with, or participated in the activities of the organization (and did not thereafter and prior to the date upon which such organization was registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950 [87] have such knowledge or reason to believe) that such organization was a Communist organization;

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[87] Section 7 of the Subversive Activities Control Act of 1950 (50 U.S.C. 786) was repealed by the Act of Jan. 2, 1968 (81 Stat. 766).

(8) in the opinion of the Attorney General, has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry; [88]

(9)(A) was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status, (B) or is an alien with permanent resident status on a conditional basis under section 216 and has such status terminated under such section;

[(10) repealed by § 7(c) of Pub. L. 99-653]

(11) is, or hereafter at any time after entry has been, a narcotic drug addict, or who at any time has been convicted of a violation of, or a conspiracy to violate, any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); [89]

(12) by reason of any conduct, behavior or activity at any time after entry became a member of any of the classes specified in paragraph (12) of section 212(a); or is or at any time after entry has been the manager, or is or at any time after entry has been connected with the management, of a house of prostitution or any other immoral place;

(13) prior to, or at the time of any entry, or at any time within five years after any entry, shall have, knowingly and for gain, encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law;

(14) at any time after entry, shall have been convicted of possessing or carrying in violation of any law any firearm [90] or destructive device (as defined in paragraphs (3) and (4)) [sic], respectively, of section 921(a) of title 18, United States Code, or any revolver or any weapon which shoots or is designed to shoot automatically or semiautomatically more than one shot without manual reloading, by a single function of the trigger, or a weapon commonly called a sawed-off shotgun;

(15) at any time within five years after entry, shall have been convicted of violating the provisions of title I of the Alien Registration Act, 1940; [91]

(16) at any time after entry, shall have been convicted more than once of violating the provisions of title I of the Alien Registration Act, 1940; [91] or

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[88] See App. VII.B.5, at p. 358, relating to attribution to an alien of a sponsor's income and resources for purposes of determining eligibility for and amount of benefits of the alien under the Supplemental Security Income program.

[89] § 1751(b) of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207-47) amended this paragraph to substitute a reference to controlled substances, effective for convictions occurring before, on, or after October 27, 1986. See section 343(a) of the Public Health Service Act (42 U.S.C. 259(a)) for deportation of drug dependent aliens upon their discharge from Public Health Service facilities.

[90] Language relating to firearms, destructive devices, and revolver was inserted by § 7348(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4473), applicable to any alien convicted, on or after November 18, 1988, of possessing any firearm or destructive device referred to. Closing parenthesis should have been placed after "Code", instead of after "(4)".

[91] Title 1 of the Alien Registration Act of 1940 (chapter 439, Act of June 28, 1940) was repealed by Public Law 772 (Act of June 25, 1948; 62 Stat. 867). For similar provisions in current law see §§ 2385 & 2387 of title 18, U.S. Code.

(17) the Attorney General finds to be an undesirable resident of the United States by reason of any of the following, to wit: has been or may hereafter be convicted of any violation or conspiracy to violate any of the following Acts or parts of Acts or any amendment thereto, the judgment on such conviction having become final, namely: an Act entitled "An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for other purposes", approved June 15, 1917, or the amendment thereof approved May 16, 1918; [92] sections 791, [93] 792, 793, 794, 2388, and 3241, title 18, United States Code; an Act entitled "An Act to prohibit the manufacture, distribution, storage, use, and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes", approved October 6, 1917 [94]; an Act entitled "An Act to prevent in time of war departure from and entry into the United States contrary to the public safety", approved May 22, 1918 [95]; section 215 of this Act; an Act entitled "An Act to punish the willful injury or destruction of war material or of war premises or utilities used in connection with war material, and for other purposes", approved April 20, 1918 [96]; sections 2151, 2153, 2154, 2155, and 2156 of title 18, United States Code; an Act entitled "An Act to authorize the President to increase temporarily the Military establishment of the United States", approved May 18, 1917, or any amendment thereof or supplement thereto [97]; the Selective Training and Service Act of 1940 [98]; the Selective Service Act of 1948; [99] the Universal Military Training and Service Act [100]; an Act entitled "An Act to punish persons who make threats against the President of the United States", approved February 14, 1917; [101] section 871

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[92] The Act of June 15, 1917 (chapter 30, 40 Stat. 217) was repealed by Public Law 772 (Act of June 25, 1948; 62 Stat. 864).

[93] Section 791 of title 18, U.S. Code, was repealed by the first section of Pub. Law 87-369 (Act of October 4, 1961, 75 Stat. 795).

[94] The Act of October 17, 1917 (chapter 83, 40 Stat. 385) was repealed by § 1106 of Pub. Law 91-452 (Act of October 15, 1970; 84 Stat. 960).

[95] The Act of May 22, 1918 (chapter 81, 40 Stat. 559) was repealed by § 403(a)(15) of Public Law 414 (Act of June 27, 1952, 66 Stat. 279). For comparable provision in current law, see § 215.

[96] The Act of April 20, 1918 (chapter 59, 40 Stat. 533) was repealed by Public Law 772 (Act of June 25, 1948, 62 Stat. 865). For comparable provision in current law, see chapter 105 (§ 2151-2156) of title 18, U.S. Code (relating to sabotage).

[97] The Act of May 18, 1917 (chapter 15, 40 Stat. 76) ceased to be effective 4 months after the declaration of termination of World War I under § 4 of chapter 29 (Act of June 15, 1917, 40 Stat. 217).

[98] The relevant provision of the Selective Training and Service Act of 1940 (chapter 720, Act of Sept. 15, 1940) became inoperative and ceased to apply March 31, 1947, under § 16(b) of that Act, as amended by § 7 of Public Law 473 (ch. 522, Act of June 29, 1946, 60 Stat. 342), except as to offenses committed before that date.

[99] The Selective Service Act of 1948 (Pubic Law 759, Act of June 24, 1948, 62 Stat. 604) has been renamed several times, see footnote 100, and is currently cited as the Military Selective Service Act (50 U.S.C. App. §§ 451 et seq.).

[100] The Universal Military Training and Service Act was the redesignation given the Selective Service Act of 1948 by § 1 of Public Law 51 (ch. 144, Act of June 19, 1951, 65 Stat. 75). This citation was superseded by the "Military Selective Service Act of 1967" by the first section of Pub. Law 90-40 (June 30, 1967, 81 Stat. 100), which, in turn, was superseded by the "Military Selective Service Act" by § 101(a)(1) of Pub. Law 92-129 (September 28, 1971, 85 Stat. 348).

[101] The Act of February 14, 1917 (chapter 64, 39 Stat. 919) has been superseded by § 871 of title 18, U.S. Code, but appears, technically, *not* to have been repealed by Public Law 772 (Act of June 25, 1948; 62 Stat. 862) as indicated in the U.S. Code notes.

of title 18, United States Code; an Act entitled "An Act to define, regulate, and punish trading with the enemy, and for other purposes", approved October 6, 1917, or any amendment, thereof, [102] known as the Trading With the Enemy [103] Act; section 6 of the Penal Code of the United States; [104] section 2384 of title 18, United States Code; has been convicted of any offense against section 13 of the Penal Code of the United States [105] committed during the period of August 1, 1914, to April 6, 1917, or of a conspiracy occurring within said period to commit an offense under said section 13 or of any offense committed during said period against the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 [106], in aid of a belligerent in the European war; section 960 of title 18, United States Code; [107]

(18) has been convicted under section 278 of this Act or under section 4 of the Immigration Act of February 5, 1917; [108]

(19) during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

(A) the Nazi government of Germany,

(B) any government in any area occupied by the military forces of the Nazi government of Germany,

(C) any government established with the assistance or cooperation of the Nazi government of Germany, or

(D) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion; or

(20) obtains the status of an alien lawfully admitted for temporary residence under section 210A and fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period.

(b) The provisions of subsection (a)(4) respecting the deportation of an alien convicted of a crime or crimes shall not apply (1) in the case of any alien who has subsequent to such conviction been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States, or (2) if the court sentencing such alien for such crimes shall make, at the time of first imposing judgment or passing sentence, or within thirty days thereafter, a recommendation to the Attorney General that such alien not be deported, due notice having been given prior to making such recommendation to representatives of the interested State, the Service, and prosecution authorities, who shall be granted an opportunity to make representations in the matter. The provisions of this subsection shall not apply in the case of any alien who is charged with being deportable from the United States under subsection (a)(11) of this section.

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[102] The Act of October 6, 1917 (chapter 106, 40 Stat. 411) may be cited as the "Trading with the enemy Act", and can be found at 50 U.S.C. App. §§ 1–44.

[103] Sic. Probably should be "enemy" to reflect Act of October 6, 1917, See footnote 102.

[104] Section 6 of the Penal Code of the United States (relating to seditious conspiracy) is § 6 of chapter 321 (Act of March 4, 1909, 35 Stat. 1089) and was repealed by Public Law 772 (Act of June 25, 1948; 62 Stat. 863). For related current provision, see § 2384 of title 18, U.S. Code.

[105] Section 13 of the Penal Code of the United States (relating to organizing military expeditions against friendly powers) is § 13 of chapter 321 (Act of March 4, 1909, 35 Stat. 1090) and was repealed by Public Law 772 (Act of June 25, 1948; 62 Stat. 863). For related current provision, see § 960 of title 18, U.S. Code.

[106] The Act of July 2, 1890 (chapter 647, 26 Stat. 209) may be cited as the Sherman Act and is shown at 15 U.S.C. §§ 1–7.

[107] Section 6(b) of the Act of Aug. 1, 1956 (50 U.S.C. 855(b)) also makes subject to deportation under this chapter any alien who is convicted of a violation of that Act (which relates to the registration of certain persons trained in foreign espionage systems).

[108] Section 4 of the Immigration Act of February 5, 1917 (chapter 29, 39 Stat. 878), relating to importation of prostitutes, was repealed by § 403(a)(13) of the Immigration and Nationality Act (66 Stat. 279) effective December 24, 1952. For comparable provision in current law, see § 278 of this Act.

(c) An alien shall be deported as having procured a visa or other documentation by fraud within the meaning of paragraph (19) of section 212(a), and to be in the United States in violation of this Act within the meaning of subsection (a)(2) of this section, if (1) hereafter he or she obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than two years prior to such entry of the alien and which, within two years subsequent to any entry of the alien into the United States, shall be judicially annulled or terminated, unless such alien shall establish to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws; or (2) it appears to the satisfaction of the Attorney General that he or she has failed or refused to fulfill his or her marital agreement which in the opinion of the Attorney General was hereafter made for the purpose of procuring his or her entry as an immigrant.

(d) Except as otherwise specifically provided in this section, the provisions of this section shall be applicable to all aliens belonging to any of the classes enumerated in subsection (a), notwithstanding (1) that any such alien entered the United States prior to the date of enactment of this Act, or (2) that the facts, by reason of which any such alien belongs to any of the classes enumerated in subsection (a), occurred prior to the date of enactment of this Act.

(e) An alien, admitted as an nonimmigrant under the provisions of either section 101(a)(15)(A)(i) or 101(a)(15)(G)(i), and who fails to maintain a status under either of those provisions, shall not be required to depart from the United States without the approval of the Secretary of State, unless such alien is subject to deportation under subsection (a) (6) or (7) of this section.

(f)(1)(A) The provisions of this section relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens who have sought to procure or have procured visas or other documentation, or entry into the United States, by fraud or misrepresentation, whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

(i) is the spouse, parent, or child of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (14), (20), and (21) of section 212(a) which were a direct result of that fraud or misrepresentation.

(B) A waiver of deportation for fraud or misrepresentation granted under subparagraph (A) shall also operate to waive deportation based on the grounds of inadmissibility at entry described under subparagraph (A)(ii) directly resulting from such fraud or misrepresentation.

(2) The provisions of subsection (a)(11) as relate to a single offense of simple possession of 30 grams or less of marihuana may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in subsection (a)(19)) who—

(A) is the spouse or child of a citizen of the United States or of an alien lawfully admitted for permanent residence, or

(B) has a child who is a citizen of the United States or an alien lawfully admitted for permanent residence,

if it is established to the satisfaction of the Attorney General that the alien's deportation would result in extreme hardship to the United States citizen or lawfully resident spouse, parent, or child of such alien and that such waiver would not be contrary to the national welfare, safety, or security of the United States.

(g) The provisions of subsection (a)(9)(B) shall not apply in the cases described in section 216(c)(4).

APPREHENSION AND DEPORTATION OF ALIENS

SEC. 242. [8 U.S.C. 1252] (a)(1) Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Except as provided in paragraph (2), any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (A) be continued in custody; or (B) be released under bond in the amount of not less than $500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (C) be released on conditional parole. But such bond or parole, whether heretofore or hereafter authorized, may be revoked at any time by the Attorney General, in his discretion, and the alien may be returned to custody under the warrant which initiated the proceedings against him and detained until final determination of his deportability. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or parole pending final decision of deportability upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to determine deportability.

(2)[109] The Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding subsection (a) [109A], the Attorney General shall not release such felon from custody.

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[109] Paragraphs (2) and (3) were added by § 7343(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4470), applicable to any alien who has been convicted on or after November 18, 1988, of an aggravated felony.

(3)(A) [109] The Attorney General shall devise and implement a system—

(i) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

(ii) to designate and train officers and employees of the Service within each district to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

(iii) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been deported; such record shall be made available to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously deported alien seeking to reenter the United States.

(B) The Attorney General shall submit reports to the Committees on the Judiciary of the House of Representatives and of the Senate at the end of the 6-month period and at the end of the 18-month period beginning on the effective date of this paragraph which describe in detail specific efforts made by the Attorney General to implement this paragraph.

(b) A special inquiry officer shall conduct proceedings under this section to determine the deportability of any alien, and shall administer oaths, present and receive evidence, interrogate, examine, and cross-examine the alien or witnesses, and as authorized by the Attorney General, shall make determinations, including orders of deportation. Determination of deportability in any case shall be made only upon a record made in a proceeding before a special inquiry officer, at which the alien shall have reasonable opportunity to be present, unless by reason of the alien's mental incompetency it is impracticable for him to be present, in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien. If any alien has been given a reasonable opportunity to be present at a proceeding under this section, and without reasonable cause fails or refuses to attend or remain in attendance at such proceeding, the special inquiry officer may proceed to a determination in like manner as if the alien were present. In any case or class of cases in which the Attorney General believes that such procedure would be of aid in making a determination, he may require specifically or by regulation that an additional immigration officer shall be assigned to present the evidence on behalf of the United States and in such case such additional immigration officer shall have authority to present evidence, and to interrogate, examine and cross-examine the alien or other witnesses in the proceedings. Nothing in the preceding sentence shall be construed to diminish the authority conferred upon the special

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[109A] Reference should be to "paragraph (1)" rather than to "subsection (a)".

inquiry officer conducting such proceedings. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer acting under the provisions of this section shall be in accordance with such regulations, not inconsistent with this Act, as the Attorney General shall prescribe. Such regulations shall include requirements that—

(1) the alien shall be given notice, reasonable under all the circumstances, of the nature of the charges against him and of the time and place at which the proceedings will be held;

(2) the alien shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose;

(3) the alien shall have a reasonable opportunity to examine the evidence against him, to present evidence in his own behalf, and to cross-examine witnesses presented by the Government; and

(4) no decision of deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence.

The procedure so prescribed shall be the sole and exclusive procedure for determining the deportability of an alien under this section. In any case in which an alien is ordered deported from the United States under the provisions of this Act, or of any other law or treaty, the decision of the Attorney General shall be final. In the discretion of the Attorney General, and under such regulations as he may prescribe, deportation proceedings, including issuance of a warrant of arrest, and a finding of deportability under this section need not be required in the case of any alien who admits to belonging to a class of aliens who are deportable under section 241 if such alien voluntarily departs from the United States at his own expense, or is removed at Government expense as hereinafter authorized, unless the Attorney General has reason to believe that such alien is deportable under paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a). If any alien who is authorized to depart voluntarily under the preceding sentence is financially unable to depart at his own expense and the Attorney General deems his removal to be in the best interest of the United States, the expense of such removal may be paid from the appropriation for the enforcement of this Act.

(c) When a final order of deportation under administrative processes is made against any alien, the Attorney General shall have a period of six months from the date of such order, or, if judicial review is had, then from the date of the final order of the court, within which to effect the alien's departure from the United States, during which period, at the Attorney General's discretion, the alien may be detained, released on bond in an amount and containing such conditions as the Attorney General may prescribe, or released on such other conditions as the Attorney General may prescribe. Any court of competent jurisdiction shall have authority to review or revise any determination of the Attorney General concerning detention, release on bond, or other release during such six-month period upon a conclusive showing in habeas corpus proceedings that the Attorney General is not proceeding with such reasonable dispatch as may be warranted by the particular facts and circumstances in the case of any alien to effect such alien's departure from the United States within such six-month period. If deportation has not been practicable, advisable, or possible, or departure of the alien from the United States under the order of deportation has not been effected, within such six-month period, the alien shall become subject to such further supervision and detention pending eventual deportation as is authorized in this section. The Attorney General is hereby authorized and directed to arrange for appropriate places of detention for those aliens whom he shall take into custody and detain under this section. Where no Federal buildings are available or buildings adapted or suitably located for the purpose are available for rental, the Attorney General is hereby authorized, notwithstanding section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or section 322 of the Act of June 30, 1932, as amended (40 U.S.C. 278a), to expend, from the appropriation provided for the administration and enforcement of the immigration laws, such amounts as may be necessary for the acquisition of land and the erection, acquisition, maintenance, operation, remodeling, or repair of buildings, sheds, and office quarters (including living quarters for officers where none are otherwise available), and adjunct facilities, necessary for the detention of aliens. For the purposes of this section an order of deportation heretofore or hereafter entered against an alien in legal detention or confinement, other than under an immigration process, shall be considered as being made as of the moment he is released from such detention or confinement, and not prior thereto.

(d) Any alien, against whom a final order of deportation as defined in subsection (c) heretofore or hereafter issued has been outstanding for more than six months, shall, pending eventual deportation, be subject to supervision under regulations prescribed by the Attorney General. Such regulations shall include provisions which will require any alien subject to supervision (1) to appear from time to time before an immigration officer for identification; (2) to submit, if necessary, to medical and psychiatric examination at the expense of the United States; (3) to give information under oath as to his nationality, circumstances, habits, associations, and activities, and such other information, whether or not related to the foregoing, as the Attorney General may deem fit and proper; and (4) to conform to such reasonable written restrictions on his conduct or activities as are prescribed by the Attorney General in his case. Any alien who shall willfully fail to comply with such regulations, or willfully fail to appear or to give information or submit to medical or psychiatric examination if required, or knowingly give false information in relation to the requirements of such regulations, or knowingly violate a reasonable restriction imposed upon his conduct or activity, shall be fined not more than $1,000 or imprisoned not more than one year, or both.[109B]

[109B] This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $250,000.

(e) Any alien against whom a final order of deportation is outstanding by reason of being a member of any of the classes described in paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a), who shall willfully fail or refuse to depart from the United States within a period of six months from the date of the final order of deportation under administrative processes, or, if judicial review is had, then from the date of the final order of the court, or shall willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure, or who shall connive or conspire, or take any other action, designed to prevent or hamper or with the purpose of preventing or hampering his departure pursuant to such order of deportation, or who shall willfully fail or refuse to present himself for deportation at the time and place required by the Attorney General pursuant to such order of deportation, shall upon conviction be guilty of a felony, and shall be imprisoned not more than ten years: *Provided,* That this subsection shall not make it illegal for any alien to take any proper steps for the purpose of securing cancellation of or exemption from such order of deportation or for the purpose of securing his release from incarceration or custody: *Provided further,* That the court may for good cause suspend the sentence of such alien and order his release under such conditions as the court may prescribe. In determining whether good cause has been shown to justify releasing the alien, the court shall take into account such factors as (1) the age, health, and period of detention of the alien; (2) the effect of the alien's release upon the national security and public peace or safety; (3) the likelihood of the alien's resuming or following a course of conduct which made or would make him deportable; (4) the character of the efforts made by such alien himself and by representatives of the country or countries to which his deportation is directed to expedite the alien's departure from the United States; (5) the reason for the inability of the Government of the United States to secure passports, other travel documents, or deportation facilities from the country or countries to which the alien has been ordered deported; and (6) the eligibility of the alien for discretionary relief under the immigration laws.

(f) Should the Attorney General find that any alien has unlawfully reentered the United States after having previously departed or been deported pursuant to an order of deportation, whether before or after the date of enactment of this Act, on any ground described in any of the paragraphs enumerated in subsection (e), the previous order of deportation shall be deemed to be reinstated from its original date and such alien shall be deported under such previous order at any time subsequent to such reentry. For the purposes of subsection (e) the date on which the finding is made that such reinstatement is appropriate shall be deemed the date of the final order of deportation.

(g) If any alien, subject to supervision or detention under subsections (c) or (d) of this section, is able to depart from the United States under the order of deportation, except that he is financially unable to pay his passage, the Attorney General may in his discretion permit such alien to depart voluntarily, and the expense of such passage to the country to which he is destined may be paid from the appropriation for the enforcement of this Act, unless such payment is otherwise provided for under this Act.

(h) An alien sentenced to imprisonment shall not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole [110] supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

(i) [111] In the case of an alien who is convicted of an offense which makes the alien subject to deportation, the Attorney General shall begin any deportation proceeding as expeditiously as possible after the date of the conviction.

EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES [112]

SEC. 242A. [8 U.S.C. 1252a] (a) IN GENERAL.—The Attorney General shall provide for the availability of special deportation proceedings at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies (as defined in section 101(a)(43).[113] Such proceedings shall be conducted in conformity with section 242 (except as otherwise provided in this section), and in a manner which eliminates the need for additional detention at any processing center of the Service and in a manner which assures expeditious deportation, where warranted, following the end of the alien's incarceration for the underlying sentence.

(b) IMPLEMENTATION.—With respect to an alien convicted of an aggravated felony who is taken into custody by the Attorney General pursuant to section 242(a)(2), the Attorney General shall, to the maximum extent practicable, detain any such felon at a facility at which other such aliens are detained. In the selection of such facility, the Attorney General shall make reasonable efforts to ensure that the alien's access to counsel and right to counsel under section 292 are not impaired.

(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.

(d) EXPEDITED PROCEEDINGS.—(1) Notwithstanding any other provision of law, the Attorney General shall provide for the initiation and, to the extent possible, the completion of deportation proceedings, and any administrative appeals thereof, in the case of any alien convicted of an aggravated felony before the alien's release from incarceration for the underlying aggravated felony.

(2) Nothing in this section shall be construed as requiring the Attorney General to effect the deportation of any alien sentenced to actual incarceration, before release from the penitentiary or correc-

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[110] "Supervised release," was added after "parole" [sic] by § 220(b) of Pub. Law 98-473 (98 Stat. 2028), effective on and after November 1, 1987. Comma missing after "Parole".

[111] Subsection (i) was added by § 701 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3445).

[112] Section 242A was inserted by § 7347(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4471), applicable in the case of any alien convicted of an aggravated felony on or after November 18, 1988.

[113] Closed parenthesis missing after "101(a)(43)".

tional institution where such alien is confined, unless the chief prosecutor or the judge in whose jurisdiction conviction occurred submits a written request to the Attorney General that such alien be so deported.

(e) REVIEW.—(1) The Attorney General shall review and evaluate deportation proceedings conducted under this section. Within 12 months after the effective date of this section, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate concerning the effectiveness of such deportation proceedings in facilitating the deportation of aliens convicted of aggravated felonies.

(2) The Comptroller General shall monitor, review, and evaluate deportation proceedings conducted under this section. Within 18 months after the effective date of this section, the Comptroller General shall submit a report to such Committees concerning the extent to which deportation proceedings conducted under this section may adversely affect the ability of such aliens to contest deportation effectively.

COUNTRIES TO WHICH ALIENS SHALL BE DEPORTED; COST OF DEPORTATION

SEC. 243. [8 U.S.C. 1253] (a) The deportation of an alien in the United States provided for in this Act, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject, national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

(3) to the country in which he was born;

(4) to the country in which the place of his birth is situated at the time he is ordered deported;

(5) to any country in which he resided prior to entering the country from which he entered the United States;

(6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or

(7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) If the United States is at war and the deportation, in accordance with the provisions of subsection (a), of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

(1) If such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or

(2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act: *Provided*, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 252, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this Act and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this Act.

(d) If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this Act.

(e) A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this Act, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 237(b).

(f) When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.[114]

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[114] Subsections (b) and (c) of § 702 of the Cuban Political Prisoners and Immigrants [sic] (contained in Pub. L. 100–202, 101 Stat. 1329-40, Dec. 22, 1987) and of § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100–204, 101 Stat. 1401, Dec. 22, 1987), provide as follows:

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act [viz., December 22, 1987], consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

Previously, subsection (c) of § 315 of the Immigration Reform and Control Act of 1986 (Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3440) provided as follows:

(c) SENSE OF CONGRESS RESPECTING TREATMENT OF CUBAN POLITICAL PRISONERS.—It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).

(h)(1) [115] The Attorney General shall not deport or return any alien (other than an alien described in section 241(a)(19)) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

(A) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

SUSPENSION OF DEPORTATION; VOLUNTARY DEPARTURE

SEC. 244. [8 U.S.C. 1254] (a) As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien (other than an alien described in section 241(a)(19)) who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

(2) is deportable under paragraphs (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18) of section 241(a); has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that during all of such period he has been and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in exceptional and extremely unusual hardship to the

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[115] Section 203(e) of the Refugee Act of 1980 amended this subsection to read as shown. Previously it had read as follows:

(h) The Attorney General is authorized to withhold deportation of any alien (other than an alien described in section 241(a)(19)) within the United States to any country in which in his opinion the alien would be subject to persecution on account of race, religion, or political opinion and for such period of time as he deems to be necessary for such reason.

alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

(b)(1) The requirement of continuous physical presence in the United States specified in paragraphs (1) and (2) of subsection (a) of this section shall not be applicable to an alien who (A) has served for a minimum period of twenty-four months in an active-duty status in the Armed Forces of the United States and, if separated from such service, was separated under honorable conditions, and (B) at the time of his enlistment or induction was in the United States.

(2) [116] An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraphs (1) and (2) of subsection (a) if the absence from the United States was brief, casual, and innocent and did not meaningfully interrupt the continuous physical presence.

(c) Upon application by any alien who is found by the Attorney General to meet the requirements of subsection (a) of this section the Attorney General may in his discretion suspend deportation of such alien.[117]

(d) Upon the cancellation of deportation in the case of any alien under this section, the Attorney General shall record the alien's lawful admission for permanent residence as of the date the cancellation of deportation of such alien is made, and unless the alien is an immediate relative within the meaning of section 201(b) the Secretary of State shall reduce by one the number of immigrant visas authorized to be issued under section 201(a) or 202(a) for the fiscal year then current.

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[116] Paragraph (2) was added to subsection (b) by § 315(b) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3439), as amended by § 2(q)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2613), and is applicable to applications submitted under section 244 before, on, or after November 6, 1986, but does not apply to aliens removed from the United States before November 6, 1986 (pursuant to § 315(e) of the Immigration Reform and Control Act of 1986, as added by § 2(q)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2614)).

[117] The following matter in subsection (c) was stricken by § 315(b)(2) of the Immigration Reform and Control Act of 1986, as amended by § 2(q)(1)(B) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2614):

If the deportation of any alien is suspended under the provisions of this subsection, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. Such reports shall be submitted on the first day of each calendar month in which Congress is in session.

(2) In the case of an alien specified in paragraph (1) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings.

(3) In the case of an alien specified in paragraph (2) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the Attorney General shall cancel deportation proceedings. If within the time above specified the Congress does not pass such a concurrent resolution, or if either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of the deportation of such alien, the Attorney General shall thereupon deport such alien in the manner provided by law.

(e)(1) Except as provided in paragraph (2), the Attorney General may, in his discretion, permit any alien under deportation proceedings, other than an alien within the provisions of paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19) of section 241(a) (and also any alien within the purview of such paragraphs if he is also within the provisions of paragraph (2) of subsection (a) of this section), to depart voluntarily from the United States at his own expense in lieu of deportation if such alien shall establish to the satisfaction of the Attorney General that he is, and has been, a person of good moral character for at least five years immediately preceding his application for voluntary departure under this subsection.[118]

(2)[119] The authority contained in paragraph (1) shall not apply to any alien who is deportable because of a conviction for an aggravated felony.

(f) The provisions of subsection (a) shall not apply to an alien who—

(1) entered the United States as a crewman subsequent to June 30, 1964;

(2) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J), or has acquired the status of such a nonimmigrant exchange alien after admission, in order to receive graduate medical education, or training, regardless of whether or not the alien is subject to or has fulfilled the two-year foreign residence requirement of section 212(e); or

(3)(A) was admitted to the United States as a nonimmigrant exchange alien as defined in section 101(a)(15)(J) or has acquired the status of such a nonimmigrant exchange alien after admission other than to receive graduate medical education or training, (B) is subject to the two-year foreign residence requirement of section 212(e), and (C) has not fulfilled that requirement or received a waiver thereof.

ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE[120]

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[118] Section 731 of the International Security and Development Cooperation Act of 1981 (Pub. L. 97-113, 95 Stat. 1557) provided as follows:

EL SALVADORAN REFUGEES

SEC. 731. It is the sense of the Congress that the administration should continue to review, on a case-by-case basis, petitions for extended voluntary departure made by citizens of El Salvador who claim that they are subject to persecution in their homeland, and should take full account of the civil strife in El Salvador in making decisions on such petitions.

[119] Paragraph (2) was added by § 7343(b)(2) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4470), applicable to aliens who have been convicted, on or after November 18, 1988, of an aggravated felony.

[120] See Appendix IV, p. 331, for acts providing for adjustment of status of certain nonimmigrants in the Virgin Islands, Cuban/Haitian entrants, and Indochinese refugees. Also, section 13 of the Act of September 11, 1957 (71 Stat. 642; 8 U.S.C. 1255b), as amended by § 17 of Pub. L. 97-116, provides as follows:

SEC. 13. Notwithstanding any other provision of law—

(a) Any alien admitted to the United States as a nonimmigrant under the provisions of either section 101(a)(15)(A) (i) or (ii) or 101(a)(15)(G) (i) or (ii) of the Immigration and Nationality Act, who has failed to maintain a status under any of those provisions, may apply to the Attorney

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SEC. 245. [8 U.S.C. 1255] (a) The status of an alien who was inspected and admitted or paroled into the United States may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if (1) the alien makes an application for such adjustment, (2) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence, and (3) an immigrant visa is immediately available to him at the time his application is filed.

(b) Upon the approval of an application for adjustment made under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for the adjustment of status is made, and the Secretary of State shall reduce by one the number of the preference or nonpreference visas authorized to be issued under sections 202(e) or 203(a) within the class to which the alien is chargeable for the fiscal year then current.

(c) Subsection (a) shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 201(b) or a special immigrant described in section 101(a)(27)(H) or (I)) who hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status or who is in unlawful immigration status on the date of filing the application for adjustment of status or who has failed (other than through no fault of his own or for technical reasons) to maintain continuously a lawful status since entry into the United States [121]; (3) any alien admitted in transit without visa under section 212(d)(4)(C); or (4) an alien (other than an immediate relative as defined in section 201(b)) who was admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.

General for adjustment of his status to that of an alien lawfully admitted for permanent residence.

(b) If, after consultation with the Secretary of State, it shall appear to the satisfaction of the Attorney General that the alien has shown compelling reasons demonstrating both that the alien is unable to return to the country represented by the government which accredited the alien or the member of the alien's immediate family and that adjustment of the alien's status to that of an alien lawfully admitted for permanent residence would be in the national interest, that the alien is a person of good moral character, that he is admissible for permanent residence under the Immigration and Nationality Act, and that such action would not be contrary to the national welfare, safety, or security, the Attorney General, in his discretion, may record the alien's lawful admission for permanent residence as of the date the order of the Attorney General approving the application for adjustment of status is made.

(c) A complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such adjustment of status. Such reports shall be submitted on the first day of each calendar month in which Congress is in session. If, during the session of the Congress at which a case is reported, or prior to the close of the session of Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the adjustment of status of such alien, the Attorney General shall thereupon require the departure of such alien in the manner provided by law. If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the Secretary of State shall, if the alien was classifiable as a quota immigrant at the time of his entry, reduce by one the quota of the quota area to which the alien is chargeable under section 202 of the Immigration and Nationality Act for the fiscal year then current or the next following year in which a quota is available. No quota shall be so reduced by more than 50 per centum in any fiscal year.

(d) The number of aliens who may be granted the status of aliens lawfully admitted for permanent residence in any fiscal year, pursuant to this section, shall not exceed fifty.

[121] The matter "or who is in unlawful immigration status" through "United States" was inserted by § 117 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3384), as amended by § 2(f)(1)(C) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2611).

(d)[122] The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216. The Attorney General may not adjust, under subsection (a), the status of a nonimmigrant alien described in section 101(a)(15)(K) (relation to an alien fiancee or fiance or the minor child of such alien) except to that of an alien lawfully admitted to the United States on a conditional basis under section 216 as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien's nonimmigrant status under section 101(a)(15)(K).

(e)(1)[123] An alien who is seeking to receive an immigrant visa on the basis of a marriage which was entered into during the period described in paragraph (2) may not have the alien's status adjusted under subsection (a).

(2) The period described in this paragraph is the period during which administrative or judicial proceedings are pending regarding the alien's right to enter or remain in the United States.

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR LAWFUL RESIDENCE[124]

SEC. 245A. [8 U.S.C. 1255a] (a) TEMPORARY RESIDENT STATUS.—The Attorney General shall adjust the status of an alien to that of an alien lawfully admitted for temporary residence if the alien meets the following requirements:

(1) TIMELY APPLICATION.—

(A) DURING APPLICATION PERIOD.—Except as provided in subparagraph (B), the alien must apply for such adjustment during the 12-month period beginning on a date (not later than 180 days after the date of enactment of this section) designated by the Attorney General.

(B) APPLICATION WITHIN 30 DAYS OF SHOW-CAUSE ORDER.—An alien who, at any time during the first 11 months of the 12-month period described in subparagraph (A), is the subject of an order to show cause issued under section 242, must make application under this section not later than the end of the 30-day period beginning either on the first day of such 12-month period or on the date of the issuance of such order, whichever day is later.

(C) INFORMATION INCLUDED IN APPLICATION.—Each application under this subsection shall contain such information as the Attorney General may require, including information on living relatives of the applicant with respect to whom a petition for preference or other status may be filed by the applicant at any later date under section 204(a).

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[122] Subsection (d) was added by § 2(e) of the Immigration Marriage Fraud Amendments of 1986 (Pub. L. 99–639, Nov. 10, 1986), and amended by § 3(b) of such Act, as amended by § 7(b) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2616).

[123] Subsection (e) was added by § 5(a)(2) of the Immigration Marriage Fraud Amendments of 1986 (Pub. L. 99–639), effective for marriages entered into on or after November 10, 1986.

[124] Section 245A was inserted by § 201(a)(1) of the Immigration Reform and Control Act of 1986 (Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3394). For reports on the legalization program under this section, see § 404 of that Act (100 Stat. 3442), shown on p. 268 of this compilation.

(2) CONTINUOUS UNLAWFUL RESIDENCE SINCE 1982.—

(A) IN GENERAL.—The alien must establish that he entered the United States before January 1, 1982, and that he has resided continuously in the United States in an unlawful status since such date and through the date the application is filed under this subsection.

(B) NONIMMIGRANTS.—In the case of an alien who entered the United States as a nonimmigrant before January 1, 1982, the alien must establish that the alien's period of authorized stay as a nonimmigrant expired before such date through the passage of time or the alien's unlawful status was known to the Government as of such date.

(C) EXCHANGE VISITORS.—If the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien must establish that the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof.

(3) CONTINUOUS PHYSICAL PRESENCE SINCE ENACTMENT.—

(A) IN GENERAL.—The alien must establish that the alien has been continuously physically present in the United States since the date of the enactment of this section.

(B) TREATMENT OF BRIEF, CASUAL, AND INNOCENT ABSENCES.— An alien shall not be considered to have failed to maintained continuous physical presence in the United States for purposes of subparagraph (A) by virtue of brief, casual, and innocent absences from the United States.

(C) ADMISSIONS.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for adjustment of status under this subsection.

(4) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2),

(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States,

(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion, and

(D) is registered or registering under the Military Selective Service Act, if the alien is required to be so registered under that Act.

For purposes of this subsection, an alien in the status of a Cuban and Haitian entrant described in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422 shall be considered to have entered the United States and to be in an unlawful status in the United States.

(b) SUBSEQUENT ADJUSTMENT TO PERMANENT RESIDENCE AND NATURE OF TEMPORARY RESIDENT STATUS.—

(1) ADJUSTMENT TO PERMANENT RESIDENCE.—The Attorney General shall adjust the status of any alien provided lawful temporary resident status under subsection (a) to that of an alien lawfully admitted for permanent residence if the alien meets the following requirements:

(A) TIMELY APPLICATION AFTER ONE YEAR'S RESIDENCE.—The alien must apply for such adjustment during the one-year period beginning with the nineteenth month that begins after the date the alien was granted such temporary resident status.

(B) CONTINUOUS RESIDENCE.—

(i) IN GENERAL.—The alien must establish that he has continuously resided in the United States since the date the alien was granted such temporary resident status.

(ii) TREATMENT OF CERTAIN ABSENCES.—An alien shall not be considered to have lost the continuous residence referred to in clause (i) by reason of an absence from the United States permitted under paragraph (3)(A).

(C) ADMISSIBLE AS IMMIGRANT.—The alien must establish that he—

(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), and

(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States.

(D) BASIC CITIZENSHIP SKILLS.—

(i) IN GENERAL.—The alien must demonstrate that he either—

(I) meets the requirements of section 312 (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States), or

(II) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English and such a knowledge and understanding of the history and government of the United States.

(ii) EXCEPTION FOR ELDERLY OR DEVELOPMENTALLY DISABLED INDIVIDUALS.—The Attorney General may, in his discretion, waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older or who is developmentally disabled.

(iii) RELATION TO NATURALIZATION EXAMINATION.—In accordance with regulations of the Attorney General, an alien who has demonstrated under clause (i)(I) that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

(2) TERMINATION OF TEMPORARY RESIDENCE.—The Attorney General shall provide for termination of temporary resident status granted an alien under subsection (a)—

(A) if it appears to the Attorney General that the alien was in fact not eligible for such status;

(B) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (d)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

(C) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (1) and such application has not been denied.

(3) AUTHORIZED TRAVEL AND EMPLOYMENT DURING TEMPORARY RESIDENCE.—During the period an alien is in lawful temporary resident status granted under subsection (a)—

(A) AUTHORIZATION OF TRAVEL ABROAD.—The Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (1) and after brief temporary trips abroad occasioned by a family obligation involving an occurrence such as the illness or death of a close relative or other family need.

(B) AUTHORIZATION OF EMPLOYMENT.—The Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS.—

(1) TO WHOM MAY BE MADE.—The Attorney General shall provide that applications for adjustment of status under subsection (a) may be filed—

(A) with the Attorney General, or

(B) with a qualified designated entity, but only if the applicant consents to the forwarding of the application to the Attorney General.

As used in this section, the term "qualified designated entity" means an organization or person designated under paragraph (2).

(2) DESIGNATION OF QUALIFIED ENTITIES TO RECEIVE APPLICATIONS.—For purposes of assisting in the program of legalization provided under this section, the Attorney General—

(A) shall designate qualified voluntary organizations and other qualified State, local, and community organizations, and

(B) may designate such other persons as the Attorney General determines are qualified and have substantial experience, demonstrated competence, and traditional long-term involvement in the preparation and submittal of applications for adjustment of status under section 209 or 245, Public Law 89-732, or Public Law 95-145.

(3) TREATMENT OF APPLICATIONS BY DESIGNATED ENTITIES.—Each qualified designated entity must agree to forward to the Attorney General applications filed with it in accordance with paragraph (1)(B) but not to forward to the Attorney General applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Attorney General.

(4) LIMITATION ON ACCESS TO INFORMATION.—Files and records of qualified designated entities relating to an alien's seeking assistance or information with respect to filing an application under this section are confidential and the Attorney General and the Service shall not have access to such files or records relating to an alien without the consent of the alien.

(5) CONFIDENTIALITY OF INFORMATION.—Neither the Attorney General, nor any other official or employee of the Department of Justice, or bureau or agency thereof, may—

(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application or for enforcement of paragraph (6) or [125] for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986,

(B) make any publication whereby the information furnished by any particular individual can be identified, or

(C) permit anyone other than the sworn officers and employees of the Department or bureau or agency or, with respect to applications filed with a designated entity, that designated entity, to examine individual applications;

except [125] that the Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code. Anyone who uses, publishes, or permits information to be examined in violation of this paragraph shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(6) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—Whoever files an application for adjustment of status under this section and knowingly and willfully falsifies, misrepresents, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

(7) APPLICATION FEES.—

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[125] The exceptions for reports to Congress and as for census information were inserted by § 2(h)(1)(D) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2611).

(A) Fee Schedule.—The Attorney General shall provide for a schedule of fees to be charged for the filing of applications for adjustment under subsection (a) or (b)(1).

(B) Use of fees.— The Attorney General shall deposit payments received under this paragraph in a separate account and amounts in such account shall be available, without fiscal year limitation, to cover administrative and other expenses incurred in connection with the review of applications filed under this section.

(d) Waiver of Numerical Limitations and Certain Grounds for Exclusion.—

(1) Numerical limitations do not apply.—The numerical limitations of sections 201 and 202 shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) Waiver of grounds for exclusion.—In the determination of an alien's admissibility under subsections (a)(4)(A), (b)(1)(C)(i), and (b)(2)(B)—

(A) Grounds of exclusion not applicable.—The provisions of paragraphs (14), (20), (21), (25), and (32) of section 212(a) shall not apply.

(B) Waiver of other grounds.—

(i) In general.—Except as provided in clause (ii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(ii) Grounds that may not be waived.—The following provisions of section 212(a) may not be waived by the Attorney General under clause (i):

(I) Paragraphs (9) and (10) (relating to criminals).

(II) Paragraph (15) (relating to aliens likely to become public charges) insofar as it relates to an application for adjustment to permanent residence.

(III) Paragraph (23) (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marihuana.

(IV) Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations).

(V) Paragraph (33) (relating to those who assisted in the Nazi persecutions).

Subclause (II) (prohibiting the waiver of section 212(a)(15)) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(iii) Special rule for determination of public charge.—An alien is not ineligible for adjustment of status under this section due to being inadmissible under section 212(a)(15) if the alien demonstrates a history of employment in the United States evidencing self-support without receipt of public cash assistance.

(C) MEDICAL EXAMINATION.—The alien shall be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

(e) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(A) and who can establish a prima facie case of eligibility to have his status adjusted under subsection (a) (but for the fact that he may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for adjustment, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(2) DURING APPLICATION PERIOD.—The Attorney General shall provide that in the case of an alien who presents a prima facie application for adjustment of status under subsection (a) during the application period, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be deported, and

(B) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(f) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) ADMINISTRATIVE AND JUDICIAL REVIEW.—There shall be no administrative or judicial review of a determination respecting an application for adjustment of status under this section except in accordance with this subsection.

(2) NO REVIEW FOR LATE FILINGS.—No denial of adjustment of status under this section based on a late filing of an application for such adjustment may be reviewed by a court of the United States or of any State or reviewed in any administrative proceeding of the United States Government.

(3) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Attorney General shall establish an appellate authority to provide for a single level of administrative appellate review of a determination described in paragraph (1).

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(4) Judicial review.—

(A) Limitation to review of deportation.—There shall be judicial review of such a denial only in the judicial review of an order of deportation under section 106.

(B) Standard for judicial review.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(g) Implementation of Section.—

(1) Regulations.—The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and of the Senate, shall prescribe—

(A) regulations establishing a definition of the term "resided continuously", as used in this section, and the evidence needed to establish that an alien has resided continuously in the United States for purposes of this section, and

(B) such other regulations as may be necessary to carry out this section.

(2) Considerations.—In prescribing regulations described in paragraph (1)(A)—

(A) Periods of continuous residence.—The Attorney General shall specify individual periods, and aggregate periods, of absence from the United States which will be considered to break a period of continuous residence in the United States and shall take into account absences due merely to brief and casual trips abroad.

(B) Absences caused by deportation or advanced parole.—The Attorney General shall provide that—

(i) an alien shall not be considered to have resided continuously in the United States, if, during any period for which continuous residence is required, the alien was outside the United States as a result of a departure under an order of deportation, and

(ii) any period of time during which an alien is outside the United States pursuant to the advance parole procedures of the Service shall not be considered as part of the period of time during which an alien is outside the United States for purposes of this section.

(C) Waivers of certain absences.—The Attorney General may provide for a waiver, in the discretion of the Attorney General, of the periods specified under subparagraph (A) in the case of an absence from the United States due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

(D) Use of certain documentation.—The Attorney General shall require that—

(i) continuous residence and physical presence in the United States must be established through documents, together with independent corroboration of the information contained in such documents, and

(ii) the documents provided under clause (i) be employment-related if employment-related documents with respect to the alien are available to the applicant.

(3) Interim final regulations.—Regulations prescribed under this section may be prescribed to take effect on an interim final basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

(h) Temporary Disqualification of Newly Legalized Aliens from Receiving Certain Public Welfare Assistance.—

(1) In general.—During the five-year period beginning on the date an alien was granted lawful temporary resident status under subsection (a), and notwithstanding any other provision of law—

(A) except as provided in paragraphs (2) and (3), the alien is not eligible for—

(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government (but in any event including the program of aid to families with dependent children under part A of title IV of the Social Security Act),

(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

(iii) assistance under the Food Stamp Act of 1977; and

(B) a State or political subdivision therein may, to the extent consistent with subparagraph (A) and paragraphs (2) and (3), provide that the alien is not eligible for the programs of financial assistance or for medical assistance described in subparagraph (A)(ii) furnished under the law of that State or political subdivision.

Unless otherwise specifically provided by this section or other law, an alien in temporary lawful residence status granted under subsection (a) shall not be considered (for purposes of any law of a State or political subdivision providing for a program of financial assistance) to be permanently residing in the United States under color of law.

(2) Exceptions.—Paragraph (1) shall not apply—

(A) to a Cuban and Haitian entrant (as defined in paragraph (1) or (2)(A) of section 501(e) of Public Law 96–422, as in effect on April 1, 1983), or

(B) in the case of assistance (other than aid to families with dependent children) which is furnished to an alien who is an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).

(3) RESTRICTED MEDICAID BENEFITS.—

(A) CLARIFICATION OF ENTITLEMENT.—Subject to the restrictions under subparagraph (B), for the purpose of providing aliens with eligibility to receive medical assistance—

(i) paragraph (1) shall not apply,

(ii) aliens who would be eligible for medical assistance but for the provisions of paragraph (1) shall be deemed, for purposes of title XIX of the Social Security Act, to be so eligible, and

(iii) aliens lawfully admitted for temporary residence under this section, such status not having changed, shall be considered to be permanently residing in the United States under color of law.

(B) RESTRICTION OF BENEFITS.—

(i) LIMITATION TO EMERGENCY SERVICES AND SERVICES FOR PREGNANT WOMEN.—Notwithstanding any provision of title XIX of the Social Security Act (including subparagraphs (B) and (C) of section 1902(a)(10) of such Act), aliens who, but for subparagraph (A), would be ineligible for medical assistance under paragraph (1), are only eligible for such assistance with respect to—

(I) emergency services (as defined for purposes of section 1916(a)(2)(D) of the Social Security Act), and

(II) services described in section 1916(a)(2)(B) of such Act (relating to service for pregnant women).

(ii) NO RESTRICTION FOR EXEMPT ALIENS AND CHILDREN.—The restrictions of clause (i) shall not apply to aliens who are described in paragraph (2) or who are under 18 years of age.

(C) DEFINITION OF MEDICAL ASSISTANCE.—In this paragraph, the term "medical assistance" refers to medical assistance under a State plan approved under title XIX of the Social Security Act.

(4) TREATMENT OF CERTAIN PROGRAMS.—Assistance furnished under any of the following provisions of law shall not be construed to be financial assistance described in paragraph (1)(A)(i):

(A) The National School Lunch Act.

(B) The Child Nutrition Act of 1966.

(C) The Vocational Education Act of 1963.

(D) Chapter 1 of the Education Consolidation and Improvement Act of 1981.

(E) The Headstart-Follow Through Act.

(F) The Job Training Partnership Act.

(G) Title IV of the Higher Education Act of 1965.

(H) The Public Health Service Act.

(I) Titles V, XVI, and XX, and parts B, D, and E of title IV, of the Social Security Act (and titles I, X, XIV, and XVI of such Act as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972).

(5) ADJUSTMENT NOT AFFECTING FASCELL-STONE BENEFITS.—For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

(i) DISSEMINATION OF INFORMATION ON LEGALIZATION PROGRAM.—Beginning not later than the date designated by the Attorney General under subsection (a)(1)(A), the Attorney General, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

RESCISSION OF ADJUSTMENT OF STATUS

SEC. 246. [8 U.S.C. 1256] (a) If, at any time within five years after the status of a person has been adjusted under the provisions of section 244 of this Act or under section 19(c) of the Immigration Act of February 5, 1917, to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall submit to the Congress a complete and detailed statement of the facts and pertinent provisions of law in the case. Such reports shall be submitted on the first and fifteenth day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution withdrawing suspension of deportation, the person shall thereupon be subject to all provisions of this Act to the same extent as if the adjustment of status had not been made. If, at any time within five years after the status of a person has been otherwise adjusted under the provisions of section 245 or 249 of this Act or any other provision of law to that of an alien lawfully admitted for permanent residence, it shall appear to the satisfaction of the Attorney General that the person was not in fact eligible for such adjustment of status, the Attorney General shall rescind the action taken granting an adjustment of status to such person and cancelling deportation in the case of such person if that occurred and the person shall thereupon be subject to all provisions of this Act to the same extent as if the adjustment of status had not been made.

(b) Any person who has become a naturalized citizen of the United States upon the basis of a record of a lawful admission for permanent residence, created as a result of an adjustment of status for which such person was not in fact eligible, and which is subsequently rescinded under subsection (a) of this section, shall be subject to the provisions of section 340 of this Act as a person whose naturalization was procured by concealment of a material fact or by willful misrepresentation.

ADJUSTMENT OF STATUS OF CERTAIN RESIDENT ALIENS TO NONIMMIGRANT STATUS

SEC. 247. [8 U.S.C. 1257] (a) The status of an alien lawfully admitted for permanent residence shall be adjusted by the Attorney General, under such regulations as he may prescribe, to that of a nonimmigrant under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a), if such alien had at the time of entry or subsequently acquires an occupational status which would, if he were seeking admission to the United States, entitle him to a nonimmigrant status under such sections. As of the date of the Attorney General's order making such adjustment of status, the Attorney General shall cancel the record of the alien's admission for permanent residence, and the immigrant status of such alien shall thereby be terminated.

(b) The adjustment of status required by subsection (a) shall not be applicable in the case of any alien who requests that he be permitted to retain his status as an immigrant and who, in such form as the Attorney General may require, executes and files with the Attorney General a written waiver of all rights, privileges, exemptions, and immunities under any law or any executive order which would otherwise accrue to him because of the acquisition of an occupational status entitling him to a nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) of section 101(a).

CHANGE OF NONIMMIGRANT CLASSIFICATION

SEC. 248.[126] [8 U.S.C. 1258] The Attorney General may, under such conditions as he may prescribe, authorize a change from any nonimmigrant classification to any other nonimmigrant classification in the case of any alien lawfully admitted to the United States as a nonimmigrant who is continuing to maintain that status, except in the case of—

(1) an alien classified as a nonimmigrant under subparagraph (C), (D), or (K) of section 101(a)(15),

(2) an alien classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who came to the United States or acquired such classification in order to receive graduate medical education or training,

(3) an alien (other than an alien described in paragraph (2)) classified as a nonimmigrant under subparagraph (J) of section 101(a)(15) who is subject to the two-year foreign residence requirement of section 212(e) and has not received a waiver thereof, unless such alien applies to have the alien's classification changed from classification under subparagraph (J) of section 101(a)(15) to a classification under subparagraph (A) or (G) of such section, and

(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l) or section 217.

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[126] Section 238(c), p. 99, limits the Attorney General's authority to adjust the status of certain aliens in continuous and immediate transit through the United States (presumably without a visa—see § 212(d)(4)).

RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JULY 1, 1924 OR JANUARY 1, 1972 [127]

SEC. 249. [8 U.S.C. 1259] A record of lawful admission for permanent residence may, in the discretion of the Attorney General and under such regulations as he may prescribe, be made in the case of any alien, as of the date of the approval of his application or, if entry occurred prior to July 1, 1924, as of the date of such entry, if no such record is otherwise available and such alien shall satisfy the Attorney General that he is not inadmissible under section 212(a)(33) [128] or under section 212(a) insofar as it relates to criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens, and he establishes that he—

(a) entered the United States prior to January 1, 1972 [127];

(b) has had his residence in the United States continuously since such entry;

(c) is a person of good moral character; and

(d) is not ineligible to citizenship.

REMOVAL OF ALIENS WHO HAVE FALLEN INTO DISTRESS

SEC. 250. [8 U.S.C. 1260] The Attorney General may remove from the United States any alien who falls into distress or who needs public aid from causes arising subsequent to his entry, and is desirous of being so removed, to the native country of such alien, or to the country from which he came, or to the country of which he is a citizen or subject, or to any other country to which he wishes to go and which will receive him, at the expense of the appropriation for the enforcement of this Act. Any alien so removed shall be ineligible to apply for or receive a visa or other documentation for readmission, or to apply for admission to the United States except with the prior approval of the Attorney General.

CHAPTER 6—SPECIAL PROVISIONS RELATING TO ALIEN CREWMEN

LISTS OF ALIEN CREWMEN; REPORTS OF ILLEGAL LANDINGS

SEC. 251. [8 U.S.C. 1281] (a) Upon arrival of any vessel or aircraft in the United States from any place outside the United States it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof to deliver to an immigration officer at the port of arrival (1) a complete, true, and correct list containing the names of all aliens employed on such vessel or aircraft, the positions they respectively hold in the crew of the vessel or aircraft, when and where they were respectively shipped or engaged, and those to be paid off or discharged in the port of arrival; or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

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[127] "January 1, 1972" was substituted for "June 30, 1948" by § 203(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3405).

[128] The phrase "under section 212(a)(33) or" was inserted by § 2(j)(3) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2612), effective as of November 6, 1986.

(b) It shall be the duty of any owner, agent, consignee, master, or commanding officer of any vessel or aircraft to report to an immigration officer, in writing, as soon as discovered, all cases in which any alien crewman has illegally landed in the United States from the vessel or aircraft, together with a description of such alien and any information likely to lead to his apprehension.

(c) Before the departure of any vessel or aircraft from any port in the United States, it shall be the duty of the owner, agent, consignee, master, or commanding officer thereof, to deliver to an immigration officer at that port (1) a list containing the names of all alien employees who were not employed thereon at the time of the arrival at that port but who will leave such port thereon at the time of the departure of such vessel or aircraft and the names of those, if any, who have been paid off or discharged, and of those, if any, who have deserted or landed at that port, or (2) in the discretion of the Attorney General, such a list containing so much of such information, or such additional or supplemental information, as the Attorney General shall by regulations prescribe. In the case of a vessel engaged solely in traffic on the Great Lakes, Saint Lawrence River, and connecting waterways, such lists shall be furnished at such times as the Attorney General may require.

(d) In case any owner, agent, consignee, master, or commanding officer shall fail to deliver complete, true, and correct lists or reports of aliens, or to report cases of desertion or landing, as required by subsections (a), (b), and (c), such owner, agent, consignee, master, or commanding officer shall, if required by the Attorney General, pay to the collector of customs of any customs district in which the vessel or aircraft may at any time be found the sum of $10 for each alien concerning whom such lists are not delivered or such reports are not made as required in the preceding subsections. No such vessel or aircraft shall be granted clearance from any port at which it arrives pending the determination of the question of the liability to the payment of such fine, and if such fine is imposed, while it remains unpaid. No such fine shall be remitted or refunded. Clearance may be granted prior to the determination of such question upon deposit of a bond or a sum sufficient to cover such fine.

(e) The Attorney General is authorized to prescribe by regulations the circumstances under which a vessel or aircraft shall be deemed to be arriving in, or departing from the United States or any port thereof within the meaning of any provision of this chapter.

CONDITIONAL PERMITS TO LAND TEMPORARILY

SEC. 252. [8 U.S.C. 1282] (a) No alien crewman shall be permitted to land temporarily in the United States except as provided in this section, section 212(d)(3), section 212(d)(5), and section 253. If an immigration officer finds upon examination that an alien crewman is a nonimmigrant under paragraph (15)(D) of section 101(a) and is otherwise admissible and has agreed to accept such permit, he may, in his discretion, grant the crewman a conditional permit to land temporarily pursuant to regulations prescribed by the Attorney General, subject to revocation in subsequent proceedings as provided in subsection (b), and for a period of time, in any event, not to exceed—

(1) the period of time (not exceeding twenty-nine days) during which the vessel or aircraft on which he arrived remains in port, if the immigration officer is satisfied that the crewman intends to depart on the vessel or aircraft on which he arrived; or

(2) twenty-nine days, if the immigration officer is satisfied that the crewman intends to depart, within the period for which he is permitted to land, on a vessel or aircraft other than the one on which he arrived.

(b) Pursuant to regulations prescribed by the Attorney General, any immigration officer may, in his discretion, if he determines that an alien is not a bona fide crewman, or does not intend to depart on the vessel or aircraft which brought him, revoke the conditional permit to land which was granted such crewman under the provisions of subsection (a)(1), take such crewman into custody, and require the master or commanding officer of the vessel or aircraft on which the crewman arrived to receive and detain him on board such vessel or aircraft, if practicable, and such crewman shall be deported from the United States at the expense of the transportation line which brought him to the United States. Until such alien is so deported, any expenses of his detention shall be borne by such transportation company. Nothing in this section shall be construed to require the procedure prescribed in section 242 of this Act to cases falling within the provisions of this subsection.

(c) Any alien crewman who willfully remains in the United States in excess of the number of days allowed in any conditional permit issued under subsection (a) shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than $500 [129] or shall be imprisoned for not more than six months, or both.

HOSPITAL TREATMENT OF ALIEN CREWMEN AFFLICTED WITH CERTAIN DISEASES

SEC. 253. [8 U.S.C. 1283] An alien crewman, including an alien crewman ineligible for a conditional permit to land under section 252(a), who is found on arrival in a port of the United States to be afflicted with any of the disabilities or diseases mentioned in section 255, shall be placed in a hospital designated by the immigration officer in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, commanding officer, or master of the vessel or aircraft, and not to be deducted from the crewman's wages. No such vessel or aircraft shall be granted clearance until such expenses are paid, or their payment appropriately guaranteed, and the collector of customs is so notified by the immigration officer in charge. An alien crewman suspected of being afflicted with any such disability or disease may be removed from the vessel or aircraft on which he arrived to an immigration station, or other appropriate place, for such observation as will enable the examining surgeons to determine definitely whether or not he is so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed. In cases in which it appears to the satisfaction of the immigration officer in charge that it will not be possible within a reasonable time to effect a cure, the return of the alien crewman shall be enforced on, or at the expense of, the transportation line on which he came, upon such conditions as the Attorney General shall prescribe, to insure that the alien shall be properly cared for and protected, and that the spread of contagion shall be guarded against.

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[129] This crime is classified as a Class B misdemeanor under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $25,000.

CONTROL OF ALIEN CREWMEN

SEC. 254. [8 U.S.C. 1284] (a) The owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof who fails (1) to detain on board the vessel, or in the case of an aircraft to detain at a place specified by an immigration officer at the expense of the airline, any alien crewman employed thereon until an immigration officer has completely inspected such alien crewman, including a physical examination by the medical examiner, or (2) to detain any alien crewman on board the vessel, or in the case of an aircraft at a place specified by an immigration officer at the expense of the airline, after such inspection unless a conditional permit to land temporarily has been granted such alien crewman under section 252 or unless an alien crewman has been permitted to land temporarily under section 212(d)(5) or 253 for medical or hospital treatment, or (3) to deport such alien crewman if required to do so by an immigration officer, whether such deportation requirement is imposed before or after the crewman is permitted to land temporarily under section 212(d)(5), 252, or 253, shall pay to the collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of $1,000 for each alien crewman in respect of whom any such failure occurs. No such vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such fine, or while the fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The Attorney General may, upon application in writing therefor, mitigate such penalty to not less than $200 for each alien crewman in respect of whom such failure occurs, upon such terms as he shall think proper.

(b) Except as may be otherwise prescribed by regulations issued by the Attorney General, proof that an alien crewman did not appear upon the outgoing manifest of the vessel or aircraft on which he arrived in the United States from any place outside thereof, or that he was reported by the master or commanding officer of such vessel or aircraft as a deserter, shall be prima facie evidence of a failure to detain or deport such alien crewman.

(c) If the Attorney General finds that deportation of an alien crewman under this section on the vessel or aircraft on which he arrived is impracticable or impossible, or would cause undue hardship to such alien crewman, he may cause the alien crewman to be deported from the port of arrival or any other port on another vessel or aircraft of the same transportation line, unless the Attorney General finds this to be impracticable. All expenses incurred in connection with such deportation, including expenses incurred in transferring an alien crewman from one place in the United States to another under such conditions and safeguards as the Attorney General shall impose, shall be paid by the owner or owners of the vessel or aircraft on which the alien arrived in the United States. The vessel or aircraft on which the alien arrived shall not be granted clearance until such expenses have been paid or their payment guaranteed to the satisfaction of the Attorney General. An alien crewman who is transferred within the United States in accordance with this subsection shall not be regarded as having been landed in the United States.

EMPLOYMENT ON PASSENGER VESSELS OF ALIENS AFFLICTED WITH CERTAIN DISABILITIES

SEC. 255. [8 U.S.C. 1285] It shall be unlawful for any vessel or aircraft carrying passengers between a port of the United States and a port outside thereof to have employed on board upon arrival in the United States any alien afflicted with feeble-mindedness, insanity, epilepsy, tuberculosis in any form, leprosy, or any dangerous contagious disease. If it appears to the satisfaction of the Attorney General, from an examination made by a medical officer of the United States Public Health Service, and is so certified by such officer, that any such alien was so afflicted at the time he was shipped or engaged and taken on board such vessel or aircraft and that the existence of such affliction might have been detected by means of a competent medical examination at such time, the owner, commanding officer, agent, consignee, or master thereof shall pay for each alien so afflicted to the collector of customs of the customs district in which the port of arrival is located the sum of $50. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Any such fine may, in the discretion of the Attorney General, be mitigated or remitted.

DISCHARGE OF ALIEN CREWMEN

SEC. 256. [8 U.S.C. 1286] It shall be unlawful for any person, including the owner, agent, consignee, charterer, master, or commanding officer of any vessel or aircraft, to pay off or discharge any alien crewman, except an alien lawfully admitted for permanent residence, employed on board a vessel or aircraft arriving in the United States without first having obtained the consent of the Attorney General. If it shall appear to the satisfaction of the Attorney General that any alien crewman has been paid off or discharged in the United States in violation of the provisions of this section, such owner, agent, consignee, charterer, master, commanding officer, or other person, shall pay to the collector of customs of the customs district in which the violation occurred the sum of $1,000 for each such violation. No vessel or aircraft shall be granted clearance pending the determination of the question of the liability to the payment of such sums, or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond approved by the collector of customs with sufficient surety to secure the payment thereof. Such fine may, in the discretion of the Attorney General, be mitigated to not less than $500 for each violation, upon such terms as he shall think proper.

BRINGING ALIEN CREWMEN INTO UNITED STATES WITH INTENT TO EVADE IMMIGRATION LAWS

SEC. 257. [8 U.S.C. 1287] Any person, including the owner, agent, consignee, master, or commanding officer of any vessel or aircraft arriving in the United States from any place outside thereof, who shall knowingly sign on the vessel's articles, or bring to the United States as one of the crew of such vessel or aircraft, any alien, with intent to permit or assist such alien to enter or land in the United States in violation of law, or who shall falsely and knowingly represent to a consular officer at the time of application for visa, or to the immigration officer at the port of arrival in the United States, that such alien is a bona fide member of the crew employed in any capacity regularly required for normal operation and services aboard such vessel or aircraft, shall be liable to a penalty not exceeding $5,000 for each such violation, for which sum such vessel or aircraft shall be liable and may be seized and proceeded against by way of libel in any district court of the United States having jurisdiction of the offense.

CHAPTER 7—REGISTRATION OF ALIENS

ALIENS SEEKING ENTRY INTO THE UNITED STATES

SEC. 261. [8 U.S.C. 1301] No visa shall be issued to any alien seeking to enter the United States until such alien has been registered in accordance with section 221(b).

REGISTRATION OF ALIENS IN THE UNITED STATES

SEC. 262. [8 U.S.C. 1302] (a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under [130] section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

(c) [131] The Attorney General may, in his discretion and on the basis of reciprocity pursuant to such regulations as he may prescribe, waive the requirement of fingerprinting specified in subsections (a) and (b) in the case of any nonimmigrant.

PROVISIONS GOVERNING REGISTRATION OF SPECIAL GROUPS

SEC. 263. [8 U.S.C. 1303] (a) Notwithstanding the provisions of sections 261 and 262, the Attorney General is authorized to prescribe special regulations and forms for the registration and fingerprinting of (1) alien crewmen, (2) holders of border-crossing identification cards, (3) aliens confined in institutions within the United States, (4) aliens under order of deportation, and (5) aliens of any other class not lawfully admitted to the United States for permanent residence.

(b) The provisions of section 262 and of this section shall not be applicable to any alien who is in the United States as a nonimmigrant under section 101(a)(15)(A) or 101(a)(15)(G) until the alien ceases to be entitled to such a nonimmigrant status.

FORMS AND PROCEDURE

SEC. 264. [8 U.S.C. 1304] (a) The Attorney General and the Secretary of State jointly are authorized and directed to prepare forms for the registration of aliens under section 261 of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title. Such forms shall contain inquiries with respect to (1) the date and place of entry of the alien into the United States; (2) activities in which he has been and intends to be engaged; (3) the length of time he expects to remain in the United States; (4) the police and criminal record, if any, of such alien; and (5) such additional matters as may be prescribed.

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[130] Previous to the enactment of § 5(a)(2) of the Immigration and Nationality Act Amendments of 1986, § 221(b) of the Immigration and Nationality Act required applicants for visas to be fingerprinted. § 9 of the Immigration and Nationality Act Amendments of 1986, as originally enacted, struck the phrase "section 221(b) of this Act or" appearing after "under". That section 9 was rewritten in its entirety by § 8(h) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100–525, 102 Stat. 2617); but, as that rewritten section 9 was not made retroactive *per se*, under § 108 of title 1, United States Code, the amendment made by the original section remains. It appears to have been the Congressional intent to restore the stricken phrase to this section; see subsection (d)(4) of Senate amendment No. 3728 (offered to H.R. 3917, Cong. Rec. p. S16684 (Oct. 18, 1988)), which passed the Senate but failed (as part of a larger amendment) to pass the House of Representatives (Cong. Rec. p. H10613, Oct. 20, 1988).

[131] Subsection (c) was added by § 9 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99–653, Nov. 14, 1986), as amended by § 8(h) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2617). A similar waiver of the fingerprinting requirements of this section in the case of nonimmigrant aliens was previously available under § 8 of the Act of Sept. 11, 1957 (71 Stat. 641; 8 U.S.C. 1201a), which was repealed by § 5(b) of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99–653, Nov. 14, 1986, 100 Stat. 3656).

(b) All registration and fingerprint records made under the provisions of this title shall be confidential, and shall be made available only to such persons or agencies as may be designated by the Attorney General.

(c) Every person required to apply for the registration of himself or another under this title shall submit under oath the information required for such registration. Any person authorized under regulations issued by the Attorney General to register aliens under this title shall be authorized to administer oaths for such purpose.

(d) Every alien in the United States who has been registered and fingerprinted under the provisions of the Alien Registration Act, 1940, or under the provisions of this Act shall be issued a certificate of alien registration or an alien registration receipt card in such form and manner and at such time as shall be prescribed under regulations issued by the Attorney General.

(e) Every alien, eighteen years of age and over, shall at all times carry with him and have in his personal possession any certificate of alien registration or alien registration receipt card issued to him pursuant to subsection (d). Any alien who fails to comply with the provisions of this subsection shall be guilty of a misdemeanor and shall upon conviction for each offense be fined not to exceed $100 or be imprisoned not more than thirty days, or both.

NOTICES OF CHANGE OF ADDRESS

SEC. 265. [8 U.S.C. 1305] (a) Each alien required to be registered under this title who is within the United States shall notify the Attorney General in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Attorney General may require by regulation.

(b) The Attorney General may in his discretion, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Attorney General of their current addresses and furnish such additional information as the Attorney General may require.

(c) In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given to such parent or legal guardian.

PENALTIES

SEC. 266. [8 U.S.C. 1306] (a) Any alien required to apply for registration and to be fingerprinted in the United States who willfully fails or refuses to make such application or to be fingerprinted, and any parent or legal guardian required to apply for the registration of any alien who willfully fails or refuses to file application for the registration of such alien shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $1,000 or be imprisoned not more than six months, or both.[132]

(b) Any alien or any parent or legal guardian in the United States of any alien who fails to give written notice to the Attorney General, as required by section 265 of this title, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $200 or be imprisoned not more than thirty days, or both. Irrespective of whether an alien is convicted and punished as herein provided, any alien who fails to give written notice to the Attorney General, as required by section 265, shall be taken into custody and deported in the manner provided by chapter 5 of this title, unless such alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

(c) Any alien or any parent or legal guardian of any alien, who files an application for registration containing statements known by him to be false, or who procures or attempts to procure registration of himself or another person through fraud, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed $1,000, or be imprisoned not more than six months, or both; [132] and any alien so convicted shall, upon the warrant of the Attorney General, be taken into custody and be deported in the manner provided in chapter 5 of this title.

(d) Any person who with unlawful intent photographs, prints, or in any other manner makes, or executes, any engraving, photograph, print, or impression in the likeness of any certificate of alien registration or an alien registration receipt card or any colorable imitation thereof, except when and as authorized under such rules and regulations as may be prescribed by the Attorney General, shall upon conviction be fined not to exceed $5,000 or be imprisoned not more than five years, or both.

CHAPTER 8—GENERAL PENALTY PROVISIONS

PREVENTION OF UNAUTHORIZED LANDING OF ALIENS

SEC. 271. [8 U.S.C. 1321] (a) It shall be the duty of every person, including the owners, masters, officers, and agents of vessels, aircraft, transportation lines, or international bridges or toll roads, other than transportation lines which may enter into a contract as provided in section 238, bringing an alien to, or providing a means for an alien to come to, the United States (including an alien crewman whose case is not covered by section 254(a)) to prevent the landing of such alien in the United States at a port of entry other than as designated by the Attorney General or at any time or place other than as designated by the immigration officers. Any such person, owner, master, officer, or agent who fails to comply with the foregoing requirements shall be liable to a penalty to be imposed by the Attorney General of $1,000 for each such violation, which may, in the discretion of the Attorney General, be remitted or mitigated by him in accordance with such proceedings as he shall by regulation prescribe. Such penalty shall be a lien upon the vessel or aircraft whose owner, master, officer, or agent violates the provisions of this section, and such vessel or aircraft may be libeled therefor in the appropriate United States court.

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[132] This crime is classified as a Class B misdemeanor under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $25,000.

(b) Proof that the alien failed to present himself at the time and place designated by the immigration officers shall be prima facie evidence that such alien has landed in the United States at a time or place other than as designated by the immigration officers.

(c)(1) [134] Any owner or operator of a railroad line, international bridge, or toll road who establishes to the satisfaction of the Attorney General that the person has acted diligently and reasonably to fulfill the duty imposed by subsection (a) shall not be liable for the penalty described in such subsection, notwithstanding the failure of the person to prevent the unauthorized landing of any alien.

(2)(A) At the request of any person described in paragraph (1), the Attorney General shall inspect any facility established, or any method utilized, at a point of entry into the United States by such person for the purpose of complying with subsection (a). The Attorney General shall approve any such facility or method (for such period of time as the Attorney General may prescribe) which the Attorney General determines is satisfactory for such purpose.

(B) Proof that any person described in paragraph (1) has diligently maintained any facility, or utilized any method, which has been approved by the Attorney General under subparagraph (A) (within the period for which the approval is effective) shall be prima facie evidence that such person acted diligently and reasonably to fulfill the duty imposed by subsection (a) (within the meaning of paragraph (1) of this subsection).

BRINGING IN ALIENS SUBJECT TO DISABILITY OR AFFLICTED WITH DISEASE

SEC. 272. [8 U.S.C. 1322] (a) Any person who shall bring to the United States an alien (other than an alien crewman) who is (1) mentally retarded, (2) insane, (3) afflicted with psychopathic personality, or with sexual deviation, (4) a chronic alcoholic, (5) afflicted with any dangerous contagious disease, or (6) a narcotic drug addict, shall pay to the collector of customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of $1,000 unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

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[134] Subsection (c) was added by § 114 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3383).

(b) Any person who shall bring to the United States an alien (other than an alien crewman) afflicted with any mental defect other than those enumerated in subsection (a) of this section, or any physical defect of a nature which may affect his ability to earn a living, as provided in section 212(a)(7), shall pay to the collector of customs of the customs district in which the place of arrival is located for each and every alien so afflicted, the sum of $250, unless (1) the alien was in possession of a valid, unexpired immigrant visa, or (2) the alien was allowed to land in the United States, or (3) the alien was in possession of a valid unexpired nonimmigrant visa or other document authorizing such alien to apply for temporary admission to the United States or an unexpired reentry permit issued to him, and (A) such application was made within one hundred and twenty days of the date of issuance of the visa or other document, or in the case of an alien in possession of a reentry permit, within one hundred and twenty days of the date on which the alien was last examined and admitted by the Service, or (B) in the event the application was made later than one hundred and twenty days of the date of issuance of the visa or other document or such examination and admission, if such person establishes to the satisfaction of the Attorney General that the existence of such disease or disability could not have been detected by the exercise of due diligence prior to the alien's embarkation.

(c) No vessel or aircraft shall be granted clearance papers pending determination of the question of liability to the payment of any fine under this section, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs.

(d) Nothing contained in this section shall be construed to subject transportation companies to a fine for bringing to ports of entry in the United States aliens who are entitled by law to exemption from the excluding provisions of section 212(a).

(e) As used in this section, the term "person" means the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft.

UNLAWFUL BRINGING OF ALIENS INTO UNITED STATES

SEC. 273. [8 U.S.C. 1323] (a) It shall be unlawful for any person, including any transportation company, or the owner, master, commanding officer, agent, charterer, or consignee of any vessel or aircraft, to bring to the United States from any place outside thereof (other than from foreign contiguous territory) any alien who does not have an unexpired visa, if a visa was required under this Act or regulations issued thereunder.

(b) If it appears to the satisfaction of the Attorney General that any alien has been so brought, such person, or transportation company, or the master, commanding officer, agent, owner, charterer, or consignee of any such vessel or aircraft, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien so brought and, except in the case of any such alien who is admitted, or permitted to land temporarily, in addition, a sum equal to that paid by such alien for his transportation from the initial point of departure, indicated in his ticket, to the port of arrival, such latter sum to be delivered by the collector of customs to the alien on whose account the assessment is made. No vessel or aircraft shall be granted clearance pending the determination of the liability to the payment of such sums or while such sums remain unpaid, except that clearance may be granted prior to the determination of such question upon the deposit of an amount sufficient to cover such sums, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs.

(c) Such sums shall not be remitted or refunded, unless it appears to the satisfaction of the Attorney General that such person, and the owner, master, commanding officer, agent, charterer, and consignee of the vessel or aircraft, prior to the departure of the vessel or aircraft from the last port outside the United States, did not know, and could not have ascertained by the exercise of reasonable diligence, that the individual transported was an alien and that a visa was required.

(d) The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside thereof who fails to detain on board or at such other place as may be designated by an immigration officer any alien stowaway until such stowaway has been inspected by an immigration officer, or who fails to detain such stowaway on board or at such other designated place after inspection if ordered to do so by an immigration officer, or who fails to deport such stowaway on the vessel or aircraft on which he arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which he arrived when required to do so by an immigration officer, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000 for each alien stowaway, in respect of whom any such failure occurs. Pending final determination of liability for such fine, no such vessel or aircraft shall be granted clearance, except that clearance may be granted upon the deposit of a sum sufficient to cover such fine, or of a bond with sufficient surety to secure the payment thereof approved by the collector of customs. The provisions of section 235 for detention of aliens for examination before special inquiry officers and the right of appeal provided for in section 236 shall not apply to aliens who arrive as stowaways and no such alien shall be permitted to land in the United States, except temporarily for medical treatment, or pursuant to such regulations as the Attorney General may prescribe for the ultimate departure or removal or deportation of such alien from the United States.

BRINGING IN AND HARBORING CERTAIN ALIENS

SEC. 274. [8 U.S.C. 1324] (a) [135] CRIMINAL PENALTIES.—(1) Any person who—

(A) knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

(B) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

(C) knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation; or

(D) encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both, for each alien in respect to whom any violation of this paragraph occurs.

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each transaction constituting a violation of this paragraph, regardless of the number of aliens involved—

(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

(B) in the case of—

(i) a second or subsequent offense,

(ii) an offense done for the purpose of commercial advantage or private financial gain, or

(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry, be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.

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[135] Subsection (a) was amended by § 112(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99–603, Nov. 6, 1986, 100 Stat. 3381). The previous subsection (a) had a proviso (commonly known as the "Texas proviso") that read as follows: "*Provided, however,* That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring".

(b)(1) Any conveyance, including any vessel, vehicle, or aircraft, which has been or is being used in the commission of a violation of subsection (a) shall be seized and subject to forfeiture, except that—

(A) no conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under the provisions of this section unless it shall appear that the owner or other person in charge of such conveyance was a consenting party or privy to the illegal act; and

(B) no conveyance shall be forfeited under the provisions of this section by reason of any act or omission established by the owner thereof to have been committed or omitted by any person other than such owner while such conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, or of any State.

(2) Any conveyance subject to seizure under this section may be seized without warrant if there is probable cause to believe the conveyance has been used or is being used in a violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

(3) All provisions of law relating to the seizure, summary and judicial forfeiture, and condemnation of property for the violation of the customs laws; the disposition of such property or the proceeds from the sale thereof; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof, except that duties imposed on customs officers or other persons regarding the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General.

(4) Whenever a conveyance is forfeited under this section the Attorney General may—

(A) retain the conveyance for official use;

(B) sell the conveyance, in which case the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs;

(C) require that the General Services Administration, or the Maritime Administration if appropriate under section 203(i) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(i)), take custody of the conveyance and remove it for disposition in accordance with law; or

(D) dispose of the conveyance in accordance with the terms and conditions of any petition of remission or mitigation of forfeiture granted by the Attorney General.

(5) In all suits or actions brought for the forfeiture of any conveyance seized under this section, where the conveyance is claimed by any person, the burden of proof shall lie upon such claimant, except that probable cause shall be first shown for the institution of such suit or action. In determining whether probable cause exists, any of the following shall be prima facie evidence that an alien involved in the alleged violation had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law:

(A) Records of any judicial or administrative proceeding in which that alien's status was an issue and in which it was determined that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(B) Official records of the Service or the Department of State showing that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(C) Testimony, by an immigration officer having personal knowledge of the facts concerning that alien's status, that the alien had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law.

(c) No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws.

UNLAWFUL EMPLOYMENT OF ALIENS [136]

SEC. 274A. [8 U.S.C. 1324a] (a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

(1) [137] IN GENERAL.—It is unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States [138]—

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[136] Section 274A was inserted by § 101(a)(1) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3360). For reports on implementation of section 274A, see § 402 of that Act (100 Stat. 3441), shown on pp. 267-268 of this compilation.

[137] Paragraph (3) of § 101(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, 100 Stat. 3372) provides as follows:

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

[138] Section 8704 of title 46, U.S. Code, added by § 5(f)(1) of the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Pub. L. 100-239, Jan. 11, 1988) provides as follows:

Continued

(A) an alien knowing the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to such employment, or

(B) an individual without complying with the requirements of subsection (b).

(2) [137] Continuing employment.—It is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

(3) Defense.—A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

(4) Use of labor through contract.—For purposes of this section, a person or other entity who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of this section, to obtain the labor of an alien in the United States knowing that the alien is an unauthorized alien (as defined in subsection (h)(3)) with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

(5) Use of state employment agency documentation.—For purposes of paragraphs (1)(B) and (3), a person or entity shall be deemed to have complied with the requirements of subsection (b) with respect to the hiring of an individual who was referred for such employment by a State employment agency (as defined by the Attorney General), if the person or entity has and retains (for the period and in the manner described in subsection (b)(3)) appropriate documentation of such referral by that agency, which documentation certifies that the agency has complied with the procedures specified in subsection (b) with respect to the individual's referral.

(b) Employment Verification System.—The requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, the requirements specified in the following three paragraphs:

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§ 8704. Alien deemed to be employed in the United States

An alien is deemed to be employed in the United States for purposes of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) if the alien is an unlicensed individual employed on a fishing, fish processing, or fish tender vessel that—

(1) is a vessel of the United States engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone; and

(2) is not engaged in fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802).

Section 5(f)(3) of that Act, 101 Stat. 1781, provides as follows:

(3) With respect to an alien who is deemed to be employed in the United States under section 8704 of title 46, United States Code (as amended by this subsection), the term "date of the enactment of this section" as used in section 274A(i) of the Immigration and Nationality Act means the date 180 days after the enactment of this section.

(1) ATTESTATION AFTER EXAMINATION OF DOCUMENTATION.—

(A) IN GENERAL.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by examining—

(i) a document described in subparagraph (B), or

(ii) a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine. If an individual provides a document or combination of documents that reasonably appears on its face to be genuine and that is sufficient to meet the requirements of the first sentence of this paragraph, nothing in this paragraph shall be construed as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce such another document.

(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT AUTHORIZATION AND IDENTITY.—A document described in this subparagraph is an individual's—

(i) United States passport;

(ii) certificate of United States citizenship;

(iii) certificate of naturalization;

(iv) unexpired foreign passport, if the passport has an appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or

(v) resident alien card or other alien registration card, if the card—

(I) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection, and

(II) is evidence of authorization of employment in the United States.

(C) DOCUMENTS EVIDENCING EMPLOYMENT AUTHORIZATION.—A document described in this subparagraph is an individual's—

(i) social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States);

(ii) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section; or

(iii) other documentation evidencing authorization of employment in the United States which the Attorney General finds, by regulation, to be acceptable for purposes of this section.

(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

(i) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section; or

(ii) in the case of individuals under 16 years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii) [138A], documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

(2) INDIVIDUAL ATTESTATION OF EMPLOYMENT AUTHORIZATION.—The individual must attest, under penalty of perjury on the form designated or established for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment.

(3) RETENTION OF VERIFICATION FORM.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral, and

(B) in the case of the hiring of an individual—

(i) three years after the date of such hiring, or

(ii) one year after the date the individual's employment is terminated,

whichever is later.

(4) COPYING OF DOCUMENTATION PERMITTED.—Notwithstanding any other provision of law, the person or entity may copy a document presented by an individual pursuant to this subsection and may retain the copy, but only (except as otherwise permitted under law) for the purpose of complying with the requirements of this subsection.

(5) LIMITATION ON USE OF ATTESTATION FORM.—A form designated or established by the Attorney General under this subsection and any information contained in or appended to such form, may not be used for purposes other than for enforcement of this Act and sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

[138A] Reference should be to "clause (i)" instead of to "clause (ii)".

(c) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(d) EVALUATION AND CHANGES IN EMPLOYMENT VERIFICATION SYSTEM.—

(1) PRESIDENTIAL MONITORING AND IMPROVEMENTS IN SYSTEM.—

(A) MONITORING.—The President shall provide for the monitoring and evaluation of the degree to which the employment verification system established under subsection (b) provides a secure system to determine employment eligibility in the United States and shall examine the suitability of existing Federal and State identification systems for use for this purpose.

(B) IMPROVEMENTS TO ESTABLISH SECURE SYSTEM.—To the extent that the system established under subsection (b) is found not to be a secure system to determine employment eligibility in the United States, the President shall, subject to paragraph (3) and taking into account the results of any demonstration projects conducted under paragraph (4), implement such changes in (including additions to) the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States. Such changes in the system may be implemented only if the changes conform to the requirements of paragraph (2).

(2) RESTRICTIONS ON CHANGES IN SYSTEM.—Any change the President proposes to implement under paragraph (1) in the verification system must be designed in a manner so the verification system, as so changed, meets the following requirements:

(A) RELIABLE DETERMINATION OF IDENTITY.—The system must be capable of reliably determining whether—

(i) a person with the identity claimed by an employee or prospective employee is eligible to work, and

(ii) the employee or prospective employee is claiming the identity of another individual.

(B) USING OF COUNTERFEIT-RESISTANT DOCUMENTS.—If the system requires that a document be presented to or examined by an employer, the document must be in a form which is resistant to counterfeiting and tampering.

(C) LIMITED USE OF SYSTEM.—Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

(D) PRIVACY OF INFORMATION.—The system must protect the privacy and security of personal information and identifiers utilized in the system.

(E) LIMITED DENIAL OF VERIFICATION.—A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

(F) LIMITED USE FOR LAW ENFORCEMENT PURPOSES.—The system may not be used for law enforcement purposes, other than for enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

(G) RESTRICTION ON USE OF NEW DOCUMENTS.—If the system requires individuals to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this Act (or enforcement of sections 1001, 1028, 1546, and 1621 of title 18, United States Code) nor to be carried on one's person.

(3) NOTICE TO CONGRESS BEFORE IMPLEMENTING CHANGES.—

(A) IN GENERAL.—The President may not implement any change under paragraph (1) unless at least—

(i) 60 days,

(ii) one year, in the case of a major change described in subparagraph (D)(iii), or

(iii) two years, in the case of a major change described in clause (i) or (ii) of subparagraph (D),

before the date of implementation of the change, the President has prepared and transmitted to the Committee on the Judiciary of the House of Representatives and to the Committee on the Judiciary of the Senate a written report setting forth the proposed change. If the President proposes to make any change regarding social security account number cards, the President shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a written report setting forth the proposed change. The President promptly shall cause to have printed in the Federal Register the substance of any major change (described in subparagraph (D)) proposed and reported to Congress.

(B) CONTENTS OF REPORT.—In any report under subparagraph (A) the President shall include recommendations for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system.

(C) CONGRESSIONAL REVIEW OF MAJOR CHANGES.—

(i) HEARINGS AND REVIEW.—The Committees on the Judiciary of the House of Representatives and of the Senate shall cause to have printed in the Congressional Record the substance of any major change described in subparagraph (D), shall hold hearings respecting the feasibility and desirability of implementing such a change, and, within the two year period before implementation, shall report to their respective Houses findings on whether or not such a change should be implemented.

(ii) CONGRESSIONAL ACTION.—No major change may be implemented unless the Congress specifically provides, in an appropriations or other Act, for funds for implementation of the change.

(D) MAJOR CHANGES DEFINED.—As used in this paragraph, the term "major change" means a change which would—

(i) require an individual to present a new card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral,

(ii) provide for a telephone verification system under which an employer, recruiter, or referrer must transmit to a Federal official information concerning the immigration status of prospective employees and the official transmits to the person, and the person must record, a verification code, or

(iii) require any change in any card used for accounting purposes under the Social Security Act, including any change requiring that the only social security account number cards which may be presented in order to comply with subsection (b)(1)(C)(i) are such cards as are in a counterfeit-resistant form consistent with the second sentence of section 205(c)(2)(D) of the Social Security Act.

(E) GENERAL REVENUE FUNDING OF SOCIAL SECURITY CARD CHANGES.—Any costs incurred in developing and implementing any change described in subparagraph (D)(iii) for purposes of this subsection shall not be paid for out of any trust fund established under the Social Security Act.

(4) DEMONSTRATION PROJECTS.—

(A) AUTHORITY.—The President may undertake demonstration projects (consistent with paragraph (2)) of different changes in the requirements of subsection (b). No such project may extend over a period of longer than three years.

(B) REPORTS ON PROJECTS.—The President shall report to the Congress on the results of demonstration projects conducted under this paragraph.

(e) COMPLIANCE.—

(1) COMPLAINTS AND INVESTIGATIONS.—The Attorney General shall establish procedures—

(A) for individuals and entities to file written, signed complaints respecting potential violations of subsection (a) or (g)(1),

(B) for the investigation of those complaints which, on their face, have a substantial probability of validity,

(C) for the investigation of such other violations of subsection (a) or (g)(1) as the Attorney General determines to be appropriate, and

(D) for the designation in the Service of a unit which has, as its primary duty, the prosecution of cases of violations of subsection (a) or (g)(1) under this subsection.

(2) Authority in investigations.—In conducting investigations and hearings under this subsection—

(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(3) Hearing.—

(A) In general.—Before imposing an order described in paragraph (4), (5), or (6) against a person or entity under this subsection for a violation of subsection (a) or (g)(1), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

(B) Conduct of hearing.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

(C) Issuance of orders.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated subsection (a) or (g)(1), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (4), (5), or (6).

(4) Cease and desist order with civil money penalty for hiring, recruiting, and referral violations.—With respect to a violation of subsection (a)(1)(A) or (a)(2), the order under this subsection—

(A) shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of—

(i) not less than $250 and not more than $2,000 for each unauthorized alien with respect to whom a violation of either such subsection occurred,

(ii) not less than $2,000 and not more than $5,000 for each such alien in the case of a person or entity previously subject to one order under this paragraph, or

(iii) not less than $3,000 and not more than $10,000 for each such alien in the case of a person or entity previously subject to more than one order under this paragraph; and

(B) may require the person or entity—

(i) to comply with the requirements of subsection (b) (or subsection (d) if applicable) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years, and

(ii) to take such other remedial action as is appropriate.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

(5) ORDER FOR CIVIL MONEY PENALTY FOR PAPERWORK VIOLATIONS.—With respect to a violation of subsection (a)(1)(B), the order under this subsection shall require the person or entity to pay a civil penalty in an amount of not less than $100 and not more than $1,000 for each individual with respect to whom such violation occurred. In determining the amount of the penalty, due consideration shall be given to the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and the history of previous violations.

(6) [139] ORDER FOR PROHIBITED INDEMNITY BONDS.—With respect to a violation of subsection (g)(1), the order under this subsection may provide for the remedy described in subsection (g)(2).

(7) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection. The Attorney General may not delegate the Attorney General's authority under this paragraph to any entity which has review authority over immigration-related matters.

(8) JUDICIAL REVIEW.—A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

(9) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to

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[139] Paragraph (6) was inserted, and subsequent paragraphs redesignated, by § 2(a)(1)(C) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2609).

seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

(f) Criminal Penalties and Injunctions for Pattern or Practice Violations.—

(1) Criminal penalty.—Any person or entity which engages in a pattern or practice of violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $3,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than six months for the entire pattern or practice, or both, notwithstanding the provisions of any other Federal law relating to fine levels.[140]

(2) Enjoining of pattern or practice violations.—Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

(g) Prohibition of Indemnity Bonds.—

(1) Prohibition.—It is unlawful for a person or other entity, in the hiring, recruiting, or referring for employment of any individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

(2) Civil penalty.—Any person or entity which is determined, after notice and opportunity for an administrative hearing under subsection (e), to have violated paragraph (1) shall be subject to a civil penalty of $1,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the general fund of the Treasury.

(h) Miscellaneous Provisions.—

(1) Documentation.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) authorized to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

(2) Preemption.—The provisions of this section preempt any State or local law imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who

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[140] Presumably, this is intended to override the higher fines permitted under §§ 3571(b) and 3571(b) of title 18, United States Code.

employ, or recruit or refer for a fee for employment, unauthorized aliens.

(3) DEFINITION OF UNAUTHORIZED ALIEN.—As used in this section, the term "unauthorized alien" means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

(i) EFFECTIVE DATES.—

(1) 6-MONTH PUBLIC INFORMATION PERIOD.—During the six-month period beginning on the first day of the first month after the date of the enactment of this section [141]—

(A) the Attorney General, in cooperation with the Secretaries of Agriculture, Commerce, Health and Human Services, Labor, and the Treasury and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of this section, and

(B) the Attorney General shall not conduct any proceeding, nor issue any order, under this section on the basis of any violation alleged to have occurred during the period.

(2) 12-MONTH FIRST CITATION PERIOD.—In the case of a person or entity, in the first instance in which the Attorney General has reason to believe that the person or entity may have violated subsection (a) during the subsequent 12-month period, the Attorney General shall provide a citation to the person or entity indicating that such a violation or violations may have occurred and shall not conduct any proceeding, nor issue any order, under this section on the basis of such alleged violation or violations.

(3) DEFERRAL OF ENFORCEMENT WITH RESPECT TO SEASONAL AGRICULTURAL SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), before the end of the application period (as defined in subparagraph (C)(i)), the Attorney General shall not conduct any proceeding, nor impose any penalty, under this section on the basis of any violation alleged to have occurred with respect to employment of an individual in seasonal agricultural services.

(B) PROHIBITION OF RECRUITMENT OUTSIDE THE UNITED STATES.—

(i) IN GENERAL.—During the application period, it is unlawful for a person or entity (including a farm labor contractor) or an agent of such a person or entity, to recruit an unauthorized alien (other than an alien described in clause (ii)) who is outside the United States to enter the United States to perform seasonal agricultural services.

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[141] For construction of the phrase "date of the enactment of this section" in the case of certain aliens employed on fishing, fish processing, or fish tender vessels, see footnote 138, pp. 147–148.

(ii) EXCEPTION.—Clause (i) shall not apply to an alien who the person or entity reasonably believes meets the requirements of section 210(a)(2) of this Act (relating to performance of seasonal agricultural services).

(iii) PENALTY FOR VIOLATION.—A person, entity, or agent that violates clause (i) shall be deemed to be subject to an order under this section in the same manner as if it had violated subsection (a)(1)(A), without regard to paragraph (2) of this subsection.

(C) DEFINITIONS.—In this paragraph:

(i) APPLICATION PERIOD.—The term "application period" means the period described in section 210(a)(1).

(ii) SEASONAL AGRICULTURAL SERVICES.—The term "seasonal agricultural services" has the meaning given such term in section 210(h).

(j) GENERAL ACCOUNTING OFFICE REPORTS.—

(1) IN GENERAL.—Beginning one year after the date of enactment of this section, and at intervals of one year thereafter for a period of three years after such date, the Comptroller General shall prepare and transmit to the Congress and to the taskforce established under subsection (k) a report describing the results of a review of the implementation and enforcement of this section during the preceding twelve-month period, for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

(2) DETERMINATION ON DISCRIMINATION.—In each report, the Comptroller General shall make a specific determination as to whether the implementation of this section has resulted in a pattern of discrimination in employment (against other than unauthorized aliens) on the basis of national origin.

(3) RECOMMENDATIONS.—If the Comptroller General has determined that such a pattern of discrimination has resulted, the report—

(A) shall include a description of the scope of that discrimination, and

(B) may include recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(k) REVIEW BY TASKFORCE.—

(1) ESTABLISHMENT OF JOINT TASKFORCE.—The Attorney General, jointly with the Chairman of the Commission on Civil Rights and the Chairman of the Equal Employment Opportunity Commission, shall establish a taskforce to review each report of the Comptroller General transmitted under subsection (j)(1).

(2) RECOMMENDATIONS TO CONGRESS.—If the report transmitted includes a determination that the implementation of this section has resulted in a pattern of discrimination in employ-

ment (against other than unauthorized aliens) on the basis of national origin, the taskforce shall, taking into consideration any recommendations in the report, report to Congress recommendations for such legislation as may be appropriate to deter or remedy such discrimination.

(3) CONGRESSIONAL HEARINGS.—The Committees on the Judiciary of the House of Representatives and of the Senate shall hold hearings respecting any report of the taskforce under paragraph (2) within 60 days after the date of receipt of the report.

(l) TERMINATION DATE FOR EMPLOYER SANCTIONS.—

(1) IF REPORT OF WIDESPREAD DISCRIMINATION AND CONGRESSIONAL APPROVAL.—The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under subsection (j), if—

(A) the Comptroller General determines, and so reports in such report, that a widespread pattern of discrimination has resulted against citizens or nationals of the United States or against eligible workers seeking employment solely from the implementation of this section; and

(B) there is enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

(2) SENATE PROCEDURES FOR CONSIDERATION.—Any joint resolution referred to in clause (B) of paragraph (1) shall be considered in the Senate in accordance with subsection (n).

(m) EXPEDITED PROCEDURES IN THE HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and adoption of joint resolutions under subsection (l), a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(n) EXPEDITED PROCEDURES IN THE SENATE.—

(1) CONTINUITY OF SESSION.—For purposes of subsection (l), the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

(2) RULEMAKING POWER.—Paragraphs (3) and (4) of this subsection are enacted—

(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions referred to in subsection (l), and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

(3) COMMITTEE CONSIDERATION.—

(A) MOTION TO DISCHARGE.—If the committee of the Senate to which has been referred a joint resolution relating to the report described in subsection (l) has not reported such joint resolution at the end of ten calendar days after its introduction, not counting any day which is excluded under paragraph (1) of this subsection, it is in order to move either to discharge the committee from further consideration of the joint resolution or to discharge the committee from further consideration of any other joint resolution introduced with respect to the same report which has been referred to the committee, except that no motion to discharge shall be in order after the committee has reported a joint resolution with respect to the same report.

(B) CONSIDERATION OF MOTION.—A motion to discharge under subparagraph (A) of this paragraph may be made only by a Senator favoring the joint resolution, is privileged, and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the joint resolution, the time to be divided equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(4) MOTION TO PROCEED TO CONSIDERATION.—

(A) IN GENERAL.—A motion in the Senate to proceed to the consideration of a joint resolution shall be privileged. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) DEBATE ON RESOLUTION.—Debate in the Senate on a joint resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) DEBATE ON MOTION.—Debate in the Senate on any debatable motion or appeal in connection with a joint resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a joint resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) MOTIONS TO LIMIT DEBATE.—A motion in the Senate to further limit debate on a joint resolution, debatable motion, or appeal is not debatable. No amendment to, or motion to recommit, a joint resolution is in order in the Senate.

UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES [142]

SEC. 274B. [8 U.S.C. 1324b] (a) PROHIBITION OF DISCRIMINATION BASED ON NATIONAL ORIGIN OR CITIZENSHIP STATUS.—

(1) GENERAL RULE.—It is an unfair immigration-related employment practice for a person or other entity to discriminate against any individual (other than an unauthorized alien, as defined in section 274A(h)(3)) with respect to the hiring, or recruitment or referral for a fee, of the individual for employment or the discharging of the individual from employment—

(A) because of such individual's national origin, or

(B) in the case of a citizen or intending citizen (as defined in paragraph (3)), because of such individual's citizenship status.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) a person or other entity that employs three or fewer employees,

(B) a person's or entity's discrimination because of an individual's national origin if the discrimination with respect to that person or entity and that individual is covered under section 703 of the Civil Rights Act of 1964, or

(C) discrimination because of citizenship status which is otherwise required in order to comply with law, regulation, or executive order, or required by Federal, State, or local government contract, or which the Attorney General determines to be essential for an employer to do business with an agency or department of the Federal, State, or local government.

(3) DEFINITION OF CITIZEN OR INTENDING CITIZEN.—As used in paragraph (1), the term "citizen or intending citizen" means an individual who—

(A) is a citizen or national of the United States, or

(B) is an alien who—

(i) is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208, and

(ii) evidences an intention to become a citizen of the United States through completing a declaration of intention to become a citizen;

but does not include (I) an alien who fails to apply for naturalization within six months of the date the alien first becomes eligible (by virtue of period of lawful permanent residence) to apply for naturalization or, if later, within six months after the date of the enactment of this section and (II) an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of the application, unless the alien can establish that the alien is actively pursuing naturalization, except that time consumed in the Service's processing the application shall not be counted toward the 2-year period.

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[142] Section 274B was inserted by section 102(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 4, 1986, 100 Stat. 3374).

(4) ADDITIONAL EXCEPTION PROVIDING RIGHT TO PREFER EQUALLY QUALIFIED CITIZENS.—Notwithstanding any other provision of this section, it is not an unfair immigration-related employment practice for a person or other entity to prefer to hire, recruit, or refer an individual who is a citizen or national of the United States over another individual who is an alien if the two individuals are equally qualified.

(b) CHARGES OF VIOLATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person alleging that the person is adversely affected directly by an unfair immigration-related employment practice (or a person on that person's behalf) or an officer of the Service alleging that an unfair immigration-related employment practice has occurred or is occurring may file a charge respecting such practice or violation with the Special Counsel (appointed under subsection (c)). Charges shall be in writing under oath or affirmation and shall contain such information as the Attorney General requires. The Special Counsel by certified mail shall serve a notice of the charge (including the date, place, and circumstances of the alleged unfair immigration-related employment practice) on the person or entity involved within 10 days.

(2) NO OVERLAP WITH EEOC COMPLAINTS.—No charge may be filed respecting an unfair immigration-related employment practice described in subsection (a)(1)(A) if a charge with respect to that practice based on the same set of facts has been filed with the Equal Employment Opportunity Commission under title VII of the Civil Rights Act of 1964, unless the charge is dismissed as being outside the scope of such title. No charge respecting an employment practice may be filed with the Equal Employment Opportunity Commission under such title if a charge with respect to such practice based on the same set of facts has been filed under this subsection, unless the charge is dismissed under this section as being outside the scope of this section.

(c) SPECIAL COUNSEL.—

(1) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, a Special Counsel for Immigration-Related Unfair Employment Practices (hereinafter in this section referred to as the "Special Counsel") within the Department of Justice to serve for a term of four years. In the case of a vacancy in the office of the Special Counsel the President may designate the officer or employee who shall act as Special Counsel during such vacancy.

(2) DUTIES.—The Special Counsel shall be responsible for investigation of charges and issuance of complaints under this section and in respect of the prosecution of all such complaints before administrative law judges and the exercise of certain functions under subsection (j)(1).

(3) COMPENSATION.—The Special Counsel is entitled to receive compensation at a rate not to exceed the rate now or hereafter provided for grade GS–17 of the General Schedule, under section 5332 of title 5, United States Code.

(4) REGIONAL OFFICES.—The Special Counsel, in accordance with regulations of the Attorney General, shall establish such regional offices as may be necessary to carry out his duties.

(d) INVESTIGATION OF CHARGES.—

(1) BY SPECIAL COUNSEL.—The Special Counsel shall investigate each charge received and, within 120 days of the date of the receipt of the charge, determine whether or not there is reasonable cause to believe that the charge is true and whether or not to bring a complaint with respect to the charge before an administrative law judge. The Special Counsel may, on his own initiative, conduct investigations respecting unfair immigration-related employment practices and, based on such an investigation and subject to paragraph (3), file a complaint before such a judge.

(2) PRIVATE ACTIONS.—If the Special Counsel, after receiving such a charge respecting an unfair immigration-related employment practice which alleges knowing and intentional discriminatory activity or a pattern or practice of discriminatory activity, has not filed a complaint before an administrative law judge with respect to such charge within such 120-day period, the person making the charge may (subject to paragraph (3)) file a complaint directly before such a judge.

(3) TIME LIMITATIONS ON COMPLAINTS.—No complaint may be filed respecting any unfair immigration-related employment practice occurring more than 180 days prior to the date of the filing of the charge with the Special Counsel. This subparagraph shall not prevent the subsequent amending of a charge or complaint under subsection (e)(1).

(e) HEARINGS.—

(1) NOTICE.—Whenever a complaint is made that a person or entity has engaged in or is engaging in any such unfair immigration-related employment practice, an administrative law judge shall have power to issue and cause to be served upon such person or entity a copy of the complaint and a notice of hearing before the judge at a place therein fixed, not less than five days after the serving of the complaint. Any such complaint may be amended by the judge conducting the hearing, upon the motion of the party filing the complaint, in the judge's discretion at any time prior to the issuance of an order based thereon. The person or entity so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint.

(2) JUDGES HEARING CASES.—Hearings on complaints under this subsection shall be considered before administrative law judges who are specially designated by the Attorney General as having special training respecting employment discrimination and, to the extent practicable, before such judges who only consider cases under this section.

(3) COMPLAINANT AS PARTY.—Any person filing a charge with the Special Counsel respecting an unfair immigration-related employment practice shall be considered a party to any complaint before an administrative law judge respecting such practice and any subsequent appeal respecting that complaint. In the discretion of the judge conducting the hearing, any other person may be allowed to intervene in the proceeding and to present testimony.

(f) TESTIMONY AND AUTHORITY OF HEARING OFFICERS.—

(1) TESTIMONY.—The testimony taken by the administrative law judge shall be reduced to writing. Thereafter, the judge, in his discretion, upon notice may provide for the taking of further testimony or hear argument.

(2) AUTHORITY OF ADMINISTRATIVE LAW JUDGES.—In conducting investigations and hearings under this subsection and in accordance with regulations of the Attorney General, the Special Counsel and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated. The administrative law judges by subpoena may compel the attendance of witnesses and the production of evidence at any designated place or hearing. In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the administrative law judge, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

(g) DETERMINATIONS.—

(1) ORDER.—The administrative law judge shall issue and cause to be served on the parties to the proceeding an order, which shall be final unless appealed as provided under subsection (i).

(2) ORDERS FINDING VIOLATIONS.—

(A) IN GENERAL.—If, upon the preponderance of the evidence, an administrative law judge determines that any person or entity named in the complaint has engaged in or is engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue and cause to be served on such person or entity an order which requires such person or entity to cease and desist from such unfair immigration-related employment practice.

(B) CONTENTS OF ORDER.—Such an order also may require the person or entity—

(i) to comply with the requirements of section 274A(b) with respect to individuals hired (or recruited or referred for employment for a fee) during a period of up to three years;

(ii) to retain for the period referred to in clause (i) and only for purposes consistent with section 274A(b)(5), the name and address of each individual who applies, in person or in writing, for hiring for an existing position, or for recruiting or referring for a fee, for employment in the United States;

(iii) to hire individuals directly and adversely affected, with or without back pay; and

(iv)(I) except as provided in subclause (II), to pay a civil penalty of not more than $1,000 for each individual discriminated against, and

(II) in the case of a person or entity previously subject to such an order, to pay a civil penalty of not more than $2,000 for each individual discriminated against.

(C) Limitation on back pay remedy.—In providing a remedy under subparagraph (B)(iii), back pay liability shall not accrue from a date more than two years prior to the date of the filing of a charge with an administrative law judge. Interim earnings or amounts earnable with reasonable diligence by the individual or individuals discriminated against shall operate to reduce the back pay otherwise allowable under such subparagraph. No order shall require the hiring of an individual as an employee or the payment to an individual of any back pay, if the individual was refused employment for any reason other than discrimination on account of national origin or citizenship status.

(D) Treatment of distinct entities.—In applying this subsection in the case of a person or entity composed of distinct, physicially [sic] separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

(3) Orders not finding violations.—If upon the preponderance of the evidence an administrative law judge determines that the person or entity named in the complaint has not engaged and is not engaging in any such unfair immigration-related employment practice, then the judge shall state his findings of fact and shall issue an order dismissing the complaint.

(h) Awarding of Attorney's Fees.—In any complaint respecting an unfair immigration-related employment practice, an administrative law judge, in the judge's discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee, if the losing party's argument is without reasonable foundation in law and fact.

(i) Review of Final Orders.—

(1) In general.—Not later than 60 days after the entry of such final order, any person aggrieved by such final order may seek a review of such order in the United States court of appeals for the circuit in which the violation is alleged to have occurred or in which the employer resides or transacts business.

(2) Further review.—Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its

judgment shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDERS.—

(1) IN GENERAL.—If an order of the agency is not appealed under subsection (i)(1), the Special Counsel (or, if the Special Counsel fails to act, the person filing the charge) may petition the United States district court for the district in which a violation of the order is alleged to have occurred, or in which the respondent resides or transacts business, for the enforcement of the order of the administrative law judge, by filing in such court a written petition praying that such order be enforced.

(2) COURT ENFORCEMENT ORDER—Upon the filing of such petition, the court shall have jurisdiction to make and enter a decree enforcing the order of the administrative law judge. In such a proceeding, the order of the administrative law judge shall not be subject to review.

(3) ENFORCEMENT DECREE IN ORIGINAL REVIEW.—If, upon appeal of an order under subsection (i)(1), the United States court of appeals does not reverse such order, such court shall have the jurisdiction to make and enter a decree enforcing the order of the administrative law judge.

(4) AWARDING OF ATTORNEY'S FEES.—In any judicial proceeding under subsection (i) or this subsection, the court, in its discretion, may allow a prevailing party, other than the United States, a reasonable attorney's fee as part of costs but only if the losing party's argument is without reasonable foundation in law and fact.

(k) TERMINATION DATES.—

(1) This section shall not apply to discrimination in hiring, recruiting, referring, or discharging of individuals occurring after the date of any termination of the provisions of section 274A, under subsection (l) of that section.

(2) The provisions of this section shall terminate 30 calendar days after receipt of the last report required to be transmitted under section 274A(j) if—

(A) the Comptroller General determines, and so reports in such report that—

(i) no significant discrimination has resulted, against citizens or nationals of the United States or against any eligible workers seeking employment, from the implementation of section 274A, or

(ii) such section has created an unreasonable burden on employers hiring such workers, and

(B) there has been enacted, within such period of 30 calendar days, a joint resolution stating in substance that the Congress approves the findings of the Comptroller General contained in such report.

The provisions of subsections (m) and (n) of section 274A shall apply to any joint resolution under subparagraph (B) in the same manner as they apply to a joint resolution under subsection (l) of such section.

ENTRY OF ALIEN AT IMPROPER TIME OR PLACE; MISREPRESENTATION AND CONCEALMENT OF FACTS

SEC. 275. [8 U.S.C. 1325] (a) Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than $500, or by both,[143] and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than $1,000, or both.[144]

(b) [145] An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, or fined not more than $250,000, or both.

REENTRY OF DEPORTED ALIEN

SEC. 276. [8 U.S.C. 1326] (a) Subject to subsection (b), any alien who—

(1) has been arrested and deported or excluded and deported, and thereafter

(2) enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission; or (B) with respect to an alien previously excluded and deported, unless such alien shall establish that he was not required to obtain such advance consent under this or any prior Act,

shall be guilty of a felony, and upon conviction thereof, be punished by imprisonment of not more than two years, or by a fine of not more than $1,000, or both.[146]

(b) [147] Notwithstanding subsection (a), in the case of any alien described in such subsection—

(1) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated felony), such alien shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both; or

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[143] This crime is classified as a Class B misdemeanor under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $25,000.

[144] This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $250,000.

[145] Subsection (b) was added by § 2(d) of the Immigration Marriage Fraud Amendments of 1986 (Pub. L. 99-639, Nov. 10, 1986, 100 Stat. 3542).

[146] This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $250,000.

[147] Subsection (b) was added by § 7345(a)(2) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690, Nov. 18, 1988), applicable to any alien who enters, attempts to enter, or is found in the United States on or after November 18, 1988.

(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 15 years, or both.

AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES

SEC. 277. [8 U.S.C. 1327] Any person who knowingly aids or assists any alien excludable under section 212(a)[148] (9), (10), (23) (insofar as an alien excludable under any such paragraph has in addition been convicted of an aggravated felony), (27), (28), or (29) to enter the United States, or who connives or conspires with any person or persons to allow, procure, or permit any such alien to enter the United States, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than $5,000 or by imprisonment for not more than five years, or both.[149]

IMPORTATION OF ALIEN FOR IMMORAL PURPOSE

SEC. 278. [8 U.S.C. 1328] The importation into the United States of any alien for the purpose of prostitution, or for any other immoral purpose, is hereby forbidden. Whoever shall, directly or indirectly, import, or attempt to import into the United States any alien for the purpose of prostitution or for any other immoral purpose, or shall hold or attempt to hold any alien for any such purpose in pursuance of such illegal importation, or shall keep, maintain, control, support, employ, or harbor in any house or other place, for the purpose of prostitution or for any other immoral purpose, any alien, in pursuance of such illegal importation, shall, in every such case, be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than $5,000 and by imprisonment for a term of not more than ten years.[150] The trial and punishment of offenses under this section may be in any district to or into which such alien is brought in pursuance of importation by the person or persons accused, or in any district in which a violation of any of the provisions of this section occurs. In all prosecutions under this section, the testimony of a husband or wife shall be admissible and competent evidence against each other.

JURISDICTION OF DISTRICT COURTS

SEC. 279. [8 U.S.C. 1329] The district courts of the United States shall have jurisdiction of all causes, civil and criminal, arising under any of the provisions of this title. It shall be the duty of the United States attorney of the proper district to prosecute every such suit when brought by the United States. Notwithstanding any other law, such prosecutions or suits may be instituted at any place in the United States at which the violation may occur or at which the person charged with a violation under section 275 or 276 may be apprehended. No suit or proceeding for a violation of any of the provisions of this title shall be settled, compromised, or discontinued without the consent of the court in which it is pending and any such settlement, compromise, or discontinuance shall be entered of record with the reasons therefor.

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[148] References to paragraphs (9), (10) and (23) were inserted by § 7346(a) of the Anti-Drug Abuse Act of 1988 (Pub. L. 100–690, Nov. 18, 1988), applicable to any aid or assistance which occurs on or after November 18, 1988.

[149] This crime is classified as a Class E felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $250,000.

[150] This crime is classified as a Class D felony under § 3559(a) of title 18, United States Code, and, under §§ 3571(b) and 3571(b) of title 18, United States Code, the maximum fine is the *greater* of the amount specified under this section or $250,000.

COLLECTION OF PENALTIES AND EXPENSES

SEC. 280. [8 U.S.C. 1330] Notwithstanding any other provisions of this title, the withholding or denial of clearance of or a lien upon any vessel or aircraft provided for in section 231, 237, 239, 243, 251, 253, 254, 255, 256, 271, 272, or 273 of this title shall not be regarded as the sole and exclusive means or remedy for the enforcement of payments of any fine, penalty or expenses imposed or incurred under such sections, but, in the discretion of the Attorney General, the amount thereof may be recovered by civil suit, in the name of the United States, from any person made liable under any of such sections.

CHAPTER 9—MISCELLANEOUS

NONIMMIGRANT VISA FEES

SEC. 281. [8 U.S.C. 1351] The fees for the furnishing and verification of applications for visas by nonimmigrants of each foreign country and for the issuance of visas to nonimmigrants of each foreign country shall be prescribed by the Secretary of State, if practicable, in amounts corresponding to the total of all visa, entry, residence, or other similar fees, taxes, or charges assessed or levied against nationals of the United States by the foreign countries of which such nonimmigrants are nationals or stateless residents: *Provided*, That nonimmigrant visas issued to aliens coming to the United States in transit to and from the headquarters district of the United Nations in accordance with the provisions of the Headquarters Agreement shall be gratis.

PRINTING OF REENTRY PERMITS AND BLANK FORMS OF MANIFESTS AND CREW LISTS

SEC. 282. [8 U.S.C. 1352] (a) Reentry permits issued under section 223 shall be printed on distinctive safety paper and shall be prepared and issued under regulations prescribed by the Attorney General.

(b) The Public Printer is authorized to print for sale to the public by the Superintendent of Documents, upon prepayment, copies of blank forms of manifests and crew lists and such other forms as may be prescribed and authorized by the Attorney General to be sold pursuant to the provisions of this title.

TRAVEL EXPENSES AND EXPENSE OF TRANSPORTING REMAINS OF OFFICERS AND EMPLOYEES WHO DIE OUTSIDE THE UNITED STATES

SEC. 283. [8 U.S.C. 1353] When officers, inspectors, or other employees of the Service are ordered to perform duties in a foreign country, or are transferred from one station to another, in the

United States or in a foreign country, or while performing duties in any foreign country become eligible for voluntary retirement and return to the United States, they shall be allowed their traveling expenses in accordance with such regulations as the Attorney General may deem advisable, and they may also be allowed, within the discretion and under written orders of the Attorney General, the expenses incurred for the transfer of their wives and dependent children, their household effects and other personal property, including the expenses for packing, crating, freight, unpacking, temporary storage, and drayage thereof in accordance with subchapter II of chapter 57 of title 5, United States Code. The expense of transporting the remains of such officers, inspectors, or other employees who die while in, or in transit to, a foreign country in the discharge of their official duties to their former homes in this country for interment, and the ordinary and necessary expenses of such interment and of preparation for shipment, are authorized to be paid on the written order of the Attorney General.

[The following provisions, relating to payment for overtime services for immigration officers and employees and printed in 8 point type, are included at this point in title 8, United States Code, but are *not* part of the Immigration and Nationality Act:

The Act of March 2, 1931 (ch. 368, 46 Stat. 1467) as amended [8 U.S.C. 1353a, 1353b] provides as follows:

That the Secretary of Labor [Attorney General] shall fix a reasonable rate of extra compensation for overtime services of immigration officers and employees of the Immigration [and Naturalization] Service who may be required to remain on duty between the hours of five o'clock postmeridian and eight o'clock antemeridian, or on Sundays or holidays, to perform duties in connection with the examination and landing of passengers and crews of steamships, trains, airplanes, or other vehicles, arriving in the United States from a foreign port by water, land, or air, such rates to be fixed on a basis of one-half day's additional pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond five o'clock postmeridian (but not to exceed two and one-half days' pay for the full period from five o'clock postmeridian to eight oclock antemeridian) and two additional days' pay for Sunday and holiday duty; in those ports where the customary working hours are other than those heretofore mentioned, the Secretary of Labor [Attorney General] is vested with authority to regulate the hours of immigration employees so as to agree with the prevailing working hours in said ports, but nothing contained in this section shall be construed in any manner to affect or alter the length of a working day for immigration employees or the overtime pay herein fixed.

Sec. 2. The said extra compensation shall be paid by the master, owner, agent, or consignee of such vessel or other conveyance arriving in the United States from a foreign port to the Secretary of Labor [Attorney General] who shall pay the same to the several immigration officers and employees entitled thereto as provided in this Act. Such extra compensation shall be paid if such officers or employees have been ordered to report for duty and have so reported, whether the actual inspection or examination of passengers or crew takes place or not: *Provided*, That this section shall not apply to the inspection at designated ports of entry of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways, when operating on regular schedules.

Part of section 1 of the Act of March 4, 1921 (41 Stat. 1424, as amended; 8 U.S.C. 1353c):

Nothing in section 1914 of Title 18, United States Code, relative to augmenting salaries of Government officials from outside sources shall prevent receiving reimbursements for services of immigration officials incident to the inspection of aliens in foreign contiguous territory, and such reimbursement shall be credited to the appropriation, "Immigration and Naturalization Service—Salaries and Expenses".

[Note.—Under § 2 of Pub. L. 87-849, the exemption from § 1914 of title 18, U.S. Code, provided above is deemed an exemption from § 209 of title 18, U.S. Code.]

[Note.—See also 5 U.S.C. 5549 with respect to payment for overtime generally. Also, section 53 of the Airport and Airway Development Act of 1970 (49 U.S.C. App.

1741) effectively limits the maximum charge for overtime to $25 per private plane or vessel.]

The Act of August 22, 1940 (ch. 688, 54 Stat. 858), as amended [8 U.S.C. 1353d] provides as follows:

That moneys collected on or after July 1, 1941, as extra compensation for overtime service of immigration officers and employees of the Immigration Service pursuant to the Act of March 2, 1931 (46 Stat. 1467), shall be deposited in the Treasury of the United States to the credit of the appropriation for the payment of salaries, field personnel of the Immigration and Naturalization Service, and the appropriation so credited shall be available for the payment of such compensation.

MEMBERS OF THE ARMED FORCES

SEC. 284. [8 U.S.C. 1354] Nothing contained in this title shall be construed so as to limit, restrict, deny, or affect the coming into or departure from the United States of an alien member of the Armed Forces of the United States who is in the uniform of, or who bears documents identifying him as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces: *Provided*, That nothing contained in this section shall be construed to give to or confer upon any such alien any other privileges, rights, benefits, exemptions, or immunities under this Act, which are not otherwise specifically granted by this Act.

DISPOSAL OF PRIVILEGES AT IMMIGRANT STATIONS

SEC. 285. [8 U.S.C. 1355] (a) Subject to such conditions and limitations as the Attorney General shall prescribe, all exclusive privileges of exchanging money, transporting passengers or baggage, keeping eating houses, or other like privileges in connection with any United States immigrant station, shall be disposed of to the lowest responsible and capable bidder (other than an alien) in accordance with the provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), and for the use of Government property in connection with the exercise of such exclusive privileges a reasonable rental may be charged. The feeding of aliens, or the furnishing of any other necessary service in connection with any United States immigrant station, may be performed by the Service without regard to the foregoing provisions of this subsection if the Attorney General shall find that it would be advantageous to the Government in terms of economy and efficiency. No intoxicating liquors shall be sold at any immigrant station.

(b) Such articles determined by the Attorney General to be necessary to the health and welfare of aliens detained at any immigrant station, when not otherwise readily procurable by such aliens, may be sold at reasonable prices to such aliens through Government canteens operated by the Service, under such conditions and limitations as the Attorney General shall prescribe.

(c) All rentals or other receipts accruing from the disposal of privileges, and all moneys arising from the sale of articles through Service-operated canteens, authorized by this section, shall be covered into the Treasury to the credit of the appropriation for the enforcement of this title.

DISPOSITION OF MONEYS COLLECTED UNDER THE PROVISIONS OF THIS TITLE

Sec. 286. [8 U.S.C. 1356] (a) All moneys paid into the Treasury to reimburse the Service for detention, transportation, hospitalization, and all other expenses of detained aliens paid from the appropriation for the enforcement of this Act, and all moneys paid into the Treasury to reimburse the Service for expenses of landing stations referred to in section 238(b) paid by the Service from the appropriation for the enforcement of this Act, shall be credited to the appropriation for the enforcement of this Act for the fiscal year in which the expenses were incurred.

(b) Moneys expended from appropriations for the Service for the purchase of evidence and subsequently recovered shall be reimbursed to the current appropriation for the Service.

(c) Except as otherwise provided in subsection (a) and subsection (b), or in any other provision of this title, all moneys received in payment of fees and administrative fines and penalties under this title shall be covered into the Treasury as miscellaneous receipts: *Provided, however,* That all fees received from applicants residing in the Virgin Islands of the United States, and in Guam, required to be paid under section 281, shall be paid over to the Treasury of the Virgin Islands and to the Treasury of Guam, respectively.

(d) [151] Schedule of Fees.—In addition to any other fee authorized by law, the Attorney General shall charge and collect $5 per individual for the immigration inspection of each passenger arriving at a port of entry in the United States, or for the preinspection of a passenger in a place outside of the United States prior to such arrival, aboard a commercial aircraft or commercial vessel.

(e) Limitations of Fees.—(1) No fee shall be charged under subsection (d) for immigration inspection or preinspection provided in connection with the arrival of any passenger whose journey originated in the following:

(A) Canada,

(B) Mexico,

(C) a territory or possession of the United States, or

(D) any adjacent island (within the meaning of section 101(b)(5) of this title).

(2) No fee may be charged under subsection (d) with respect to the arrival of any passenger—

(A) who is in transit to a destination outside the United States, and

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[151] Subsections (d) through (k) were inserted by § 205(a) of the Department of Justice Appropriations Act, 1987 (as contained in § 101(b) of Pub. L. 99-500, Oct. 18, 1986, 100 Stat. 1783-53), as amended by § 4(a)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2614). Subsection (b) of § 205 of the Department of Justice Appropriation Act, 1987, as amended by § 4(a)(2) of the Immigration Technical Corrections Amendments of 1988 (102 Stat. 2615) provides as follows (which provision follows a subsection (l) originally added to this section):

(b)(1) The amendments made by subsection (a) shall apply with respect to immigration inspection services rendered after November 30, 1986.

(2) Fees may be charged under section 286(d) of the Immigration and Nationality Act only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.

(B) for whom immigration inspection services are not provided.

(f) COLLECTION.—(1) Each person that issues a document or ticket to an individual for transportation by a commercial vessel or commercial aircraft into the United States shall—

(A) collect from that individual the fee charged under subsection (d) at the time the document or ticket is issued; and

(B) identify on that document or ticket the fee charged under subsection (d) as a Federal inspection fee.

(2) If—

(A) a document or ticket for transportation of a passenger into the United States is issued in a foreign country; and

(B) the fee charged under subsection (d) is not collected at the time such document or ticket is issued;

the person providing transportation to such passenger shall collect such fee at the time such passenger departs from the United States and shall provide such passenger a receipt for the payment of such fee.

(3) The person who collects fees under paragraph (1) or (2) shall remit those fees to the Attorney General at any time before the date that is thirty-one days after the close of the calendar quarter in which the fees are collected. Regulations issued by the Attorney General under this subsection with respect to the collection of the fees charged under subsection (d) and the remittance of such fees to the Treasury of the United States shall be consistent with the regulations issued by the Secretary of the Treasury for the collection and remittance of the taxes imposed by subchapter C of chapter 33 of the Internal Revenue Code of 1986, but only to the extent the regulations issued with respect to such taxes do not conflict with the provisions of this section.

(g) PROVISION OF IMMIGRATION INSPECTION AND PREINSPECTION SERVICES.—Notwithstanding the Act of March 2, 1931, 46 Stat. 1467 (8 U.S.C. 1353b), or any other provision of law, the immigration services required to be provided to passengers upon arrival in the United States on scheduled airline flights shall be adequately provided when needed and at no cost (other than the fees imposed under subsection (d)) to airlines and airline passengers at:

(1) immigration serviced airports, and

(2) places located outside of the United States at which an immigration officer is stationed for the purpose of providing such immigration services.

(h) DISPOSITION OF RECEIPTS.—(1)(A) All of the fees collected under subsection (d) shall be deposited in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the "Immigration User Fee Account". At the end of each 2-year period, beginning with the creation of this account, the Attorney General, following a public rulemaking with opportunity for notice and comment, shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing these services.

(B) Notwithstanding any other provisions of law, all civil fines or penalties collected pursuant to sections 271 and 273 of this title and all liquidated damages and expenses collected pursuant to this Act shall be deposited in the Immigration User Fee Account.

(2)(A) The Secretary of the Treasury shall refund out of the Immigration User Fee Account to any appropriation the amount paid out of such appropriation for expenses incurred by the Attorney General in providing immigration inspection and preinspection services for commercial aircraft or vessels and in—

(i) providing overtime immigration inspection services for commercial aircraft or vessels;

(ii) administration of debt recovery, including the establishment and operation of a national collections office;

(iii) expansion, operation and maintenance of information systems for nonimmigrant control and debt collection;

(iv) detection of fraudulent documents used by passengers traveling to the United States; and

(v) providing detention and deportation services for excludable aliens arriving on commercial aircraft and vessels.

(B) The amounts which are required to be refunded under subparagraph (A) shall be refunded at least quarterly on the basis of estimates made by the Attorney General of the expenses referred to in subparagraph (A). Proper adjustments shall be made in the amounts subsequently refunded under subparagraph (A) to the extent prior estimates were in excess of, or less than, the amount required to be refunded under subparagraph (A).

(i) REIMBURSEMENT.—Notwithstanding any other provision of law, the Attorney General is authorized to receive reimbursement from the owner, operator, or agent of a private or commercial aircraft or vessel, or from any airport or seaport authority for expenses incurred by the Attorney General in providing immigration inspection services which are rendered at the request of such person or authority (including the salary and expenses of individuals employed by the Attorney General to provide such immigration inspection services). The Attorney General's authority to receive such reimbursement shall terminate immediately upon the provision for such services by appropriation.

(j) REGULATIONS.—The Attorney General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.

(k) ADVISORY COMMITTEE.—In accordance with the provisions of the Federal Advisory Committee Act, the Attorney General shall establish an advisory committee, whose membership shall consist of representatives from the airline and other transportation industries who may be subject to any fee or charge authorized by law or proposed by the Immigration and Naturalization Service for the purpose of covering expenses incurred by the Immigration and Naturalization Service. The advisory committee shall meet on a periodic basis and shall advise the Attorney General on issues related to the performance of the inspectional services of the Immigration and Naturalization Service. This advice shall include, but not be limited to, such issues as the time periods during which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. The Attorney General shall give substantial consideration to the views of the advisory committee in the exercise of his duties.

[(l) Deleted by amendments made by § 4(a)(1)(D) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2615); see § 205(b) of the Department of Justice Appropriation Act, 1987, in footnote 151 on p. 172.]

(m) [152] Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited into a separate account entitled "Immigration Examinations Fee Account" in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: *Provided, however*, That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam.

(n) [152] All deposits into the "Immigration Examinations Fee Account" in excess of $50,000,000 shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the "Immigration Examinations Fee Account". At least annually, deposits in the amount of $50,000,000 shall be transferred from the "Immigration Examinations Fee Account" to the General Fund of the Treasury of the United States.

(o) [152] The Attorney General will prepare and submit annually to Congress statements of financial condition of the "Immigration Examinations Fee Account", including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year.

(p) [152] The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.

POWERS OF IMMIGRATION OFFICERS AND EMPLOYEES

SEC. 287. [8 U.S.C. 1357] (a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

(1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any

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[152] Subsections (m) through (p) were added to "[t]itle 8, United States Code, section 1356" by § 209(a) of the Department of Justice Appropriations Act, 1989 (in Pub. L. 100-459, 102 Stat. 2203, Oct. 1, 1988).

such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States; and

(4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, or expulsion of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.

(b) Any officer or employee of the Service designated by the Attorney General, whether individually or as one of a class, shall have power and authority to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States, or concerning any matter which is material or relevant to the enforcement of this Act and the administration of the Service; and any person to whom such oath has been administered (or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code), under the provisions of this Act, who shall knowingly or willfully give false evidence or swear (or subscribe under penalty of perjury as permitted under section 1746 of title 28, United States Code) to any false statement concerning any matter referred to in this subsection shall be guilty of perjury and shall be punished as provided by section 1621, title 18, United States Code.

(c) Any officer or employee of the Service authorized and designated under regulations prescribed by the Attorney General, whether individually or as one of a class, shall have power to conduct a search, without warrant, of the person, and of the personal effects in the possession of any person seeking admission to the United States, concerning whom such officer or employee may have reasonable cause to suspect that grounds exist for exclusion from the United States under this Act which would be disclosed by such search.

(d)[153] In the case of an alien who is arrested by a Federal, State, or local law enforcement official for a violation of any law relating to controlled substances, if the official (or another official)—

(1) has reason to believe that the alien may not have been lawfully admitted to the United States or otherwise is not lawfully present in the United States,

(2) expeditiously informs an appropriate officer or employee of the Service authorized and designated by the Attorney General of the arrest and of facts concerning the status of the alien, and

(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien,

the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.

(e)[154] Notwithstanding any other provision of this section other than paragraph (3) of subsection (a), an officer or employee of the Service may not enter without the consent of the owner (or agent thereof) or a properly executed warrant onto the premises of a farm or other outdoor agricultural operation for the purpose of interrogating a person believed to be an alien as to the person's right to be or to remain in the United States.

LOCAL JURISDICTION OVER IMMIGRANT STATIONS

SEC. 288. [8 U.S.C. 1358] The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant station.

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[153] This subsection was added by subsection (d) of § 1751 of the Anti-Drug Abuse Act of 1986 (Pub. L. 99-570, Oct. 27, 1986, 100 Stat. 3207-47), and corrected by § 5 of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2615). Subsection (e) of § 1751 of the Anti-Drug Abuse Act of 1986 provides as follows:

(e)(1) From the sums appropriated to carry out this Act [viz., Pub. L. 99-570], the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the computer capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject to criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

(2) At the end of the first year of the pilot program, the Attorney General shall provide for an evaluation of the effectiveness of the program and shall report to Congress on such evaluation and on whether the pilot program should be extended or expanded.

[154] This subsection was added, originally as subsection (d), by § 116 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3384), but was redesignated as subsection (e) by § 2(e)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2610).

AMERICAN INDIANS BORN IN CANADA

SEC. 289. [8 U.S.C. 1359] Nothing in this title shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

CENTRAL FILE; INFORMATION FROM OTHER DEPARTMENTS AND AGENCIES

SEC. 290. [8 U.S.C. 1360] (a) There shall be established in the office of the Commissioner, for the use of the security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted to the United States, or excluded therefrom, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted to the United States, or excluded therefrom, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this Act.

(b) Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) The Secretary of Health and Human Services shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.

(d) A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

BURDEN OF PROOF

SEC. 291. [8 U.S.C. 1361] Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not subject to exclusion under any provision of this Act, and, if an alien, that he is entitled to the nonimmigrant; immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not subject to exclusion under any provision of this Act. In any deportation proceeding under chapter 5 against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

RIGHT TO COUNSEL

SEC. 292. [8 U.S.C. 1362] In any exclusion or deportation proceedings before a special inquiry officer and in any appeal proceedings before the Attorney General from any such exclusion or deportation proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

DEPOSIT OF AND INTEREST ON CASH RECEIVED TO SECURE IMMIGRATION BONDS

SEC. 293. [8 U.S.C. 1363] (a) Cash received by the Attorney General as security on an immigration bond shall be deposited in the Treasury of the United States in trust for the obligor on the bond, and shall bear interest payable at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum. Such interest shall accrue from date of deposit occurring after April 27, 1966, to and including date of withdrawal or date of breach of the immigration bond, whichever occurs first: *Provided,* That cash received by the Attorney General as security on an immigration bond, and deposited by him in the postal savings system prior to discontinuance of the system, shall accrue interest as provided in this section from the date such cash ceased to accrue interest under the system. Appropriations to the Treasury Department for interest on uninvested funds shall be available for payment of said interest.

(b) The interest accruing on cash received by the Attorney General as security on an immigration bond shall be subject to the same disposition as prescribed for the principal cash, except that interest accruing to the date of breach of the immigration bond shall be paid to the obligor on the bond.

[The following provisions, sections 401 and 501 of the Immigration Reform and Control Act of 1986 and printed in 8 point type, are included at this point as chapter 13 of title 8, United States Code, but are *not* part of the Immigration and Nationality Act:

SEC. 401. [8 U.S.C. 1364] TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) TRIENNIAL REPORT.—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) DETAILS IN EACH REPORT.—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) History and Projections.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) Recommendations.—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 501. [8 U.S.C. 1365] REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) Reimbursement of States.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) Illegal Aliens Convicted of a Felony.—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) Marielito Cubans Convicted of a Felony.—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued,

under the laws of the United States.

(d) Authorization of Appropriation.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) State Defined.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE III—NATIONALITY AND NATURALIZATION

CHAPTER 1—NATIONALITY AT BIRTH AND BY COLLECTIVE NATURALIZATION

NATIONALS AND CITIZENS OF THE UNITED STATES AT BIRTH [160]

SEC. 301.[161] [8 U.S.C. 1401] The following shall be nationals and citizens of the United States at birth:

(a) a person born in the United States, and subject to the jurisdiction thereof;

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[160] Section 506(b) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, shown on pp. 342–343, makes this section and section 308 applicable to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands, effective upon the termination of the trusteeship agreement and the establishment of the Commonwealth of the Northern Mariana Islands.

[161] HISTORICAL NOTE.—Previous to 1978, section 301 required that a person born abroad of a U.S. citizen parent and an alien parent must be physically present in the United States for a particular period of time in order to retain United States citizenship. Subsection (b) of this section provided for a five-year period of continuous residence as follows:

(b) Any person who is a national and citizen of the United States at birth under paragraph (7) of subsection (a), shall lose his nationality and citizenship unless he shall come to the United States prior to attaining the age of twenty-three years and shall immediately following any such coming be continuously physically present in the United State[s] for at least five years: *Provided*, That such physical presence follows the attainment of the age of fourteen years and precedes the age of twenty-eight years.

Subsection (c) of this section clarified that this requirement only applied to aliens born abroad after May 24, 1934:

(c) Subsection (b) shall apply to a person born abroad subsequent to May 24, 1934: *Provided, however*, That nothing contained in this subsection shall be construed to alter or affect the citizenship of any person born abroad subsequent to May 24, 1934, who, prior to the effective date of this Act, has taken up a residence in the United States before attaining the age of sixteen years, and thereafter, whether before or after the effective date of this Act, complies or shall comply with the residence requirements for retention of citizenship specified in subsections (g) and (h) of section 201 of the Nationality Act of 1940, as amended.

Section 16 of the Act of September 11, 1957 (71 Stat. 644) provided a rule for determining continuity of residence as follows: "In the administration of section 301(b) of the Immigration and Nationality Act, absences from the United States of less than twelve months in the aggregate, during the period for which continuous physical presence in the United States is required, shall not be considered to break the continuity of such physical presence."

Public Law 92–584 (Oct. 27, 1972, 86 Stat. 1289) amended these provisions by rewriting subsection (b) to provide for only a two year residency requirement as follows:

(b) Any person who is a national and citizen of the United States under paragraph (7) of subsection (a) shall lose his nationality and citizenship unless—(1) he shall come to the United States and be continuously physically present therein for a period of not less than two years between the ages of fourteen years and twenty-eight years; or (2) the alien parent is naturalized while the child is under the age of eighteen years and the child begins to reside permanently in the United States while under the age of eighteen years. In the administration of this subsection absences from the United States of less than sixty days in the aggregate during the period for which continuous physical presence in the United States is required shall not break the continuity of such physical presence.

That public law also repealed section 16 of the Act of September 11, 1957, and added a new subsection (d), as a savings clause for those complying with the previous law:

(d) Nothing contained in subsection (b), as amended, shall be construed to alter or affect the citizenship of any person who has come to the United States prior to the effective date of this subsection and who, whether before or after the effective date of this subsection, immediately following such coming complies or shall comply with the physical presence requirements for retention of citizenship specified in subsection (b) prior to its amendment and the repeal of section 16 of the Act of September 11, 1957.

These amendments applied to aliens born abroad after May 24, 1934.

The first section of Public Law 95–432 (Oct. 10, 1978, 92 Stat 1046), effective October 10, 1978, repealed subsections (b), (c), and (d), thus eliminating the residence requirement for retention of United States citizenship. This change was effective on October 10, 1978, and is prospective in nature (viz., it does not reinstate as citizens those who had lost citizenship under section 301(b) as previously in effect). See H. Rept. 95–1493 (95th Cong.), to accompany H.R. 13349, p. 2.

(b) a person born in the United States to a member of an Indian, Eskimo, Aleutian, or other aboriginal tribe: *Provided*, That the granting of citizenship under this subsection shall not in any manner impair or otherwise affect the right of such person to tribal or other property;

(c) a person born outside of the United States and its outlying possessions of parents both of whom are citizens of the United States and one of whom has had a residence in the United States or one of its outlying possessions, prior to the birth of such person;

(d) a person born outside of the United States and its outlying possessions of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year prior to the birth of such person, and the other of whom is a national, but not a citizen of the United States;

(e) a person born in an outlying possession of the United States of parents one of whom is a citizen of the United States who has been physically present in the United States or one of its outlying possessions for a continuous period of one year at any time prior to the birth of such person;

(f) a person of unknown parentage found in the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in the United States;

(g) [162] a person born outside the geographical limits of the United States and its outlying possessions of parents one of whom is an alien, and the other a citizen of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two [163] of which were after attaining the age of fourteen years: *Provided*, That any periods of honorable service in the Armed Forces of the United States, or periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288) by such citizen parent, or any periods during which such citizen parent is physically present abroad as the dependent unmarried son or daughter and a member of the household of a person (A) honorably serving with the Armed Forces of the United States, or (B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act, may be included in order to satisfy the physical-presence requirement of this paragraph. This proviso shall be applicable to persons born on or after December 24, 1952, to the same extent as if it had become effective in its present form on that date.

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[162] The Act of March 16, 1956 (70 Stat. 50; 8 U.S.C. 1401a), provides as follows:

That section 301(g) of the Immigration and Nationality Act shall be considered to have been and to be applicable to a child born outside of the United States and its outlying possessions after January 12, 1941, and before December 24, 1952, of parents one of whom is a citizen of the United States who has served in the Armed Forces of the United States after December 31, 1946, and before December 24, 1952, and whose case does not come within the provisions of section 201 (g) or (i) of the Nationality Act of 1940.

[163] § 12 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3657) substituted "five years, at least two" for "ten years, at least five", effective for persons born on or after November 14, 1986.

PERSONS BORN IN PUERTO RICO ON OR AFTER APRIL 11, 1899

SEC. 302. [8 U.S.C. 1402] All persons born in Puerto Rico on or after April 11, 1899, and prior to January 13, 1941, subject to the jurisdiction of the United States, residing on January 13, 1941, in Puerto Rico or other territory over which the United States exercises rights of sovereignty and not citizens of the United States under any other Act, are hereby declared to be citizens of the United States as of January 13, 1941. All persons born in Puerto Rico on or after January 13, 1941, and subject to the jurisdiction of the United States, are citizens of the United States at birth.

PERSONS BORN IN THE CANAL ZONE OR REPUBLIC OF PANAMA ON OR AFTER FEBRUARY 26, 1904

SEC. 303. [8 U.S.C. 1403] (a) Any person born in the Canal Zone on or after February 26, 1904, and whether before or after the effective date of this Act,[164] whose father or mother or both at the time of the birth of such person was or is a citizen of the United States, is declared to be a citizen of the United States.

(b) Any person born in the Republic of Panama on or after February 26, 1904, and whether before or after the effective date of this Act, whose father or mother or both at the time of the birth of such person was or is a citizen of the United States employed by the Government of the United States or by the Panama Railroad Company, or its successor in title, is declared to be a citizen of the United States.

PERSONS BORN IN ALASKA ON OR AFTER MARCH 30, 1867

SEC. 304. [8 U.S.C. 1404] A person born in Alaska on or after March 30, 1867, except a noncitizen Indian, is a citizen of the United States at birth. A noncitizen Indian born in Alaska on or after March 30, 1867, and prior to June 2, 1924, is declared to be a citizen of the United States as of June 2, 1924. An Indian born in Alaska on or after June 2, 1924, is a citizen of the United States at birth.

PERSONS BORN IN HAWAII

SEC. 305. [8 U.S.C. 1405] A person born in Hawaii on or after August 12, 1898, and before April 30, 1900, is declared to be a citizen of the United States as of April 30, 1900. A person born in Hawaii on or after April 30, 1900, is a citizen of the United States at birth. A person who was a citizen of the Republic of Hawaii on August 12, 1898, is declared to be a citizen of the United States as of April 30, 1900.

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[164] The effective date of this Act is December 24, 1952.

PERSONS LIVING IN AND BORN IN THE VIRGIN ISLANDS

SEC. 306. [8 U.S.C. 1406] (a) The following persons and their children born subsequent to January 17, 1917, and prior to February 25, 1927, are declared to be citizens of the United States as of February 25, 1927:

(1) All former Danish citizens who, on January 17, 1917, resided in the Virgin Islands of the United States, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who did not make the declaration required to preserve their Danish citizenship by article 6 of the treaty entered into on August 4, 1916, between the United States and Denmark, or who, having made such a declaration have heretofore renounced or may hereafter renounce it by a declaration before a court of record;

(2) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in those islands, and were residing in those islands or in the United States or Puerto Rico on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country;

(3) All natives of the Virgin Islands of the United States who, on January 17, 1917, resided in the United States, and were residing in those islands on February 25, 1927, and who were not on February 25, 1927, citizens or subjects of any foreign country; and

(4) All natives of the Virgin Islands of the United States who, on June 28, 1932, were residing in continental United States, the Virgin Islands of the United States, Puerto Rico, the Canal Zone, or any other insular possession or territory of the United States, and who, on June 28, 1932, were not citizens or subjects of any foreign country, regardless of their place of residence on January 17, 1917.

(b) All persons born in the Virgin Islands of the United States on or after January 17, 1917, and prior to February 25, 1927, and subject to the jurisdiction of the United States are declared to be citizens of the United States as of February 25, 1927; and all persons born in those islands on or after February 25, 1927, and subject to the jurisdiction of the United States, are declared to be citizens of the United States at birth.

PERSONS LIVING IN AND BORN IN GUAM

SEC. 307. [8 U.S.C. 1407] (a) The following persons, and their children born after April 11, 1899, are declared to be citizens of the United States as of August 1, 1950, if they were residing on August 1, 1950, on the island of Guam or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of the island of Guam on April 11, 1899, including those temporarily absent from the island on that date, who were Spanish subjects, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality; and

(2) All persons born in the island of Guam who resided in Guam on April 11, 1899, including those temporarily absent from the island on that date, who after that date continued to reside in Guam or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire foreign nationality.

(b) All persons born in the island of Guam on or after April 11, 1899 (whether before or after August 1, 1950) subject to the jurisdiction of the United States, are hereby declared to be citizens of the United States: *Provided*, That in the case of any person born before August 1, 1950, he has taken no affirmative steps to preserve or acquire foreign nationality.

(c) Any person hereinbefore described who is a citizen or national of a country other than the United States and desires to retain his present political status shall have made, prior to August 1, 1952, a declaration under oath of such desire, said declaration to be in form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States by virtue of this Act.

NATIONALS BUT NOT CITIZENS OF THE UNITED STATES AT BIRTH [165]

SEC. 308. [8 U.S.C. 1408] Unless otherwise provided in section 301 of this title, the following shall be nationals, but not citizens of the United States at birth:

(1) A person born in an outlying possession of the United States on or after the date of formal acquisition of such possession;

(2) A person born outside the United States and its outlying possessions of parents both of whom are nationals, but not citizens, of the United States, and have had a residence in the United States, or one of its outlying possessions prior to the birth of such person;

(3) A person of unknown parentage found in an outlying possession of the United States while under the age of five years, until shown, prior to his attaining the age of twenty-one years, not to have been born in such outlying possession; and

(4) [166] A person born outside the United States and its outlying possessions of parents one of whom is an alien, and the other a national, but not a citizen, of the United States who, prior to the birth of such person, was physically present in the United States or its outlying possessions for a period or periods totaling not less than seven years in any continuous period of ten years—

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[165] See footnote 160, p. 181, and App. V.A., p. 339, for nationality provisions relating to citizens of the Northern Mariana Islands.

[166] Paragraph (4) was added by subsection (a) of § 15 of Pub. L. 99-396 (Aug. 27, 1986, 100 Stat. 842). Subsection (b) of that section reads as follows:

(b) The amendment made by subsection (a) shall apply to persons born before, on, or after the date of the enactment of this Act [viz., August 27, 1986]. In the case of a person born before the date of the enactment of this Act—

> (1) the status of a national of the United States shall not be considered to be conferred upon the person until the date the person establishes to the satisfaction of the Secretary of State that the person meets the requirements of section 308(4) of the Immigration and Nationality Act, and
>
> (2) the person shall not be eligible to vote in any general election in American Samoa earlier than January 1, 1987.

(A) during which the national parent was not outside the United States or its outlying possessions for a continuous period of more than one year, and

(B) at least five years of which were after attaining the age of fourteen years.

The proviso of section 301(g) shall apply to the national parent under this paragraph in the same manner as it applies to the citizen parent under that section.

CHILDREN BORN OUT OF WEDLOCK

SEC. 309. [8 U.S.C. 1409] (a)[167] The provisions of paragraphs (c), (d), (e), and (g) of section 301, and of paragraph (2) of section 308, shall apply as of the date of birth to a person born out of wedlock if—

(1) a blood relationship between the person and the father is established by clear and convincing evidence,

(2) the father had the nationality of the United States at the time of the person's birth,

(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

(4) while the the person is under the age of 18 years—

(A) the person is legitimated under the law of the person's residence or domicile,

(B) the father acknowledges paternity of the person in writing under oath, or

(C) the paternity of the person is established by adjudication of a competent court.

(b) Except as otherwise provided in section 405, the provisions of section 301(g) shall apply to a child born out of wedlock on or after January 13, 1941, and before December 24, 1952, as of the date of birth, if the paternity of such child is established at any time while such child is under the age of twenty-one years by legitimation.

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[167] Subsection (a) was rewritten by § 13 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653), as amended by § 8(k) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2617). Subsection (e) of § 23 of the Immigration and Nationality Act Amendments of 1986, as amended by § 8(r) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2619), provides as follows:

(e)(1) Except as provided in paragraph (2)(B), the new section 309(a) (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act [viz., November 14, 1986].

(2) The old section 309(a) shall apply—

(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act [viz., November 14, 1986], and

(B) any individual with respect to whom paternity was established by legitimation before such date.

(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act [viz., November 14, 1986], may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

(4) In this subsection:

(A) The term "new section 309(a)" means section 309(a) of the Immigration and Nationality Act, as amended by section 13 of this Act [viz., the Immigration and Nationality Act Amendments of 1986] and as in effect after the date of the enactment of this Act.

(B) The term "old section 309(a)" means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

[NOTE.—The text of "old section 309(a)" is as follows: "The provisions of paragraphs (c), (d), (e), and (g) of section 301, and of paragraph (2) of section 308, of this title shall apply as of the date of birth to a child born out of wedlock on or after the effective date of this Act [viz., December 24, 1952], if the paternity of such child is established while such child is under the age of twenty-one years by legitimation."]

(c) Notwithstanding the provision of subsection (a) of this section, a person born, after December 23, 1952, outside the United States and out of wedlock shall be held to have acquired at birth the nationality status of his mother, if the mother had the nationality of the United States at the time of such person's birth, and if the mother had previously been physically present in the United States or one of its outlying possessions for a continuous period of one year.

CHAPTER 2—NATIONALITY THROUGH NATURALIZATION

JURISDICTION TO NATURALIZE

SEC. 310. [8 U.S.C. 1421] (a) Exclusive jurisdiction to naturalize persons as citizens of the United States is hereby conferred upon the following specified courts: District courts of the United States now existing, or which may hereafter be established by Congress in any State, District Court of the United States for the District of Columbia and for Puerto Rico, the District Court of the Virgin Islands of the United States, and the District Court of Guam; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.[168] The jurisdiction of all the courts herein specified to naturalize persons shall extend only to such persons resident within the respective jurisdiction of such courts, except as otherwise specifically provided in this title.

(b) A person who petitions for naturalization in any State court having naturalization jurisdiction may petition within the State judicial district or State judicial circuit in which he resides, whether or not he resides within the county in which the petition for naturalization is filed.

(c) The courts herein specified, upon request of the clerks of such courts, shall be furnished from time to time by the Attorney General with such blank forms as may be required in naturalization proceedings.

(d) A person may be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title, and not otherwise.

ELIGIBILITY FOR NATURALIZATION

SEC. 311. [8 U.S.C. 1422] The right of a person to become a naturalized citizen of the United States shall not be denied or abridged because of race or sex or because such person is married.

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[168] Section 506(c) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States, see pp. 342-343, includes courts of record of Northern Mariana Islands and the District Court for the Northern Mariana Islands among the courts having jurisdiction to naturalize persons under this section, effective upon the establishment of the Commonwealth of the Northern Mariana Islands.

REQUIREMENTS AS TO UNDERSTANDING THE ENGLISH LANGUAGE, HISTORY, PRINCIPLES, AND FORM OF GOVERNMENT OF THE UNITED STATES

SEC. 312. [8 U.S.C. 1423] No person except as otherwise provided in this title shall hereafter be naturalized as a citizen of the United States upon his own petition who cannot demonstrate—

(1) an understanding of the English language, including an ability to read, write, and speak words in ordinary usage in the English language: *Provided*, That this requirement shall not apply to any person physically unable to comply therewith, if otherwise qualified to be naturalized, or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence: *Provided further*, That the requirements of this section relating to ability to read and write shall be met if the applicant can read or write simple words and phrases to the end that a reasonable test of his literacy shall be made and that no extraordinary or unreasonable conditions shall be imposed upon the applicant; and

(2) a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States.

PROHIBITION UPON THE NATURALIZATION OF PERSONS OPPOSED TO GOVERNMENT OR LAW, OR WHO FAVOR TOTALITARIAN FORMS OF GOVERNMENT

SEC. 313. [8 U.S.C. 1424] (a) Notwithstanding the provisions of section 405(b), no person shall hereafter be naturalized as a citizen of the United States—

(1) who advocates or teaches, or who is a member of or affiliated with any organization that advocates or teaches, opposition to all organized government; or

(2) who is a member of or affiliated with (A) the Communist Party of the United States; (B) any other totalitarian party of the United States; (C) the Communist Political Association; (D) the Communist or other totalitarian party of any State of the United States, of any foreign state, or of any political or geographical subdivision of any foreign state; (E) any section, subsidiary, branch, affiliate, or subdivision of any such association or party; (F) the direct predecessors or successors of any such association or party, regardless of what name such group or organization may have used, may now bear, or may hereafter adopt; (G) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-action organization during the time it is registered or required to be registered under the provisions of section 7 of the Subversive Activities Control Act of 1950,[169] or

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[169] Sec. 7 of the Subversive Activities Control Act of 1950 (50 U.S.C. 786) was repealed by § 5 of Pub. L. 90-237 (Jan. 2, 1968; 81 Stat. 766).

(H) who, regardless of whether he is within any of the other provisions of this section, is a member of or affiliated with any Communist-front organization during the time it is registered or required to be registered under section 7 of the Subversive Activities Control Act of 1950,[169] unless such alien establishes that he did not have knowledge or reason to believe at the time he became a member of or affiliated with such an organization (and did not thereafter and prior to the date upon which such organization was so registered or so required to be registered have such knowledge or reason to believe) that such organization was a Communist-front organization; or

(3) who, although not within any of the other provisions of this section, advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, or who is a member of or affiliated with any organization that advocates the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship, either through its own utterances or through any written or printed publications issued or published by or with the permission or consent of or under authority of such organizations or paid for by the funds of such organization; or

(4) who advocates or teaches or who is a member of or affiliated with any organization that advocates or teaches (A) the overthrow by force or violence or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or

(5) who writes or publishes or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed or who knowingly has in his possession for the purpose of circulation, publication, distribution, or display, any written or printed matter, advocating or teaching opposition to all organized government, or advocating (A) the overthrow by force, violence, or other unconstitutional means of the Government of the United States or of all forms of law; or (B) the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers (either of specific individuals or of officers generally) of the Government of the United States or of any other organized government, because of his or their official character; or (C) the unlawful damage, injury, or destruction of property; or (D) sabotage; or (E) the economic, international, and governmental doctrines of world communism or the establishment in the United States of a totalitarian dictatorship; or

(6) who is a member of or affiliated with any organization, that writes, circulates, distributes, prints, publishes, or dis-

plays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subparagraph (5).

(b) The provisions of this section or of any other section of this Act shall not be construed as declaring that any of the organizations referred to in this section or in any other section of this Act do not advocate the overthrow of the Government of the United States by force, violence, or other unconstitutional means.

(c) The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization or after such filing and before taking the final oath of citizenship is, or has been found to be within any of the classes enumerated within this section, notwithstanding that at the time the petition is filed he may not be included within such classes.

(d) Any person who is within any of the classes described in subsection (a) solely because of past membership in, or past affiliation with, a party or organization may be naturalized without regard to the provisions of subsection (c) if such person establishes that such membership or affiliation is or was involuntary, or occurred and terminated prior to the attainment by such alien of the age of sixteen years, or that such membership or affiliation is or was by operation of law, or was for purposes of obtaining employment, food rations, or other essentials of living and where necessary for such purposes.

INELIGIBILITY TO NATURALIZATION OF DESERTERS FROM THE ARMED FORCES OF THE UNITED STATES

SEC. 314. [8 U.S.C. 1425] A person who, at any time during which the United States has been or shall be at war, deserted or shall desert the military, air, or naval forces of the United States, or who, having been duly enrolled, departed, or shall depart from the jurisdiction of the district in which enrolled, or who, whether or not having been duly enrolled, went or shall go beyond the limits of the United States, with intent to avoid any draft into the military, air, or naval service, lawfully ordered, shall, upon conviction thereof by a court martial or a court of competent jurisdiction, be permanently ineligible to become a citizen of the United States; and such deserters and evaders shall be forever incapable of holding any office of trust or of profit under the United States, or of exercising any rights of citizens thereof.

ALIEN RELIEVED FROM TRAINING AND SERVICE IN THE ARMED FORCES OF THE UNITED STATES BECAUSE OF ALIENAGE BARRED FROM CITIZENSHIP

SEC. 315. [8 U.S.C. 1426] (a) Notwithstanding the provisions of section 405(b), any alien who applies or has applied for exemption or discharge from training or service in the Armed Forces or in the National Security Training Corps of the United States on the ground that he is an alien, and is or was relieved or discharged from such training or service on such ground, shall be permanently ineligible to become a citizen of the United States.

(b) The records of the Selective Service System or of the Department of Defense shall be conclusive as to whether an alien was relieved or discharged from such liability for training or service because he was an alien.

REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION, AND FAVORABLE DISPOSITION TO THE UNITED STATES

SEC. 316. [8 U.S.C. 1427] (a) No person, except as otherwise provided in this title, shall be naturalized, unless such petitioner, (1) immediately preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least five years and during the five years immediately preceding the date of filing his petition has been physically present therein for periods totaling at least half of that time, and who has resided within the State in which the petitioner filed the petition for at least six months, (2) has resided continuously within the United States from the date of the petition up to the time of admission to citizenship, and (3) during all the periods referred to in this subsection has been and still is a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States.

(b) Absence from the United States of more than six months but less than one year during the period for which continuous residence is required for admission to citizenship, immediately preceding the date of filing the petition for naturalization, or during the period between the date of filing the petition and the date of final hearing, shall break the continuity of such residence, unless the petitioner shall establish to the satisfaction of the court that he did not in fact abandon his residence in the United States during such period.

Absence from the United States for a continuous period of one year or more during the period for which continuous residence is required for admission to citizenship (whether preceding or subsequent to the filing of the petition for naturalization) shall break the continuity of such residence except that in the case of a person who has been physically present and residing in the United States after being lawfully admitted for permanent residence for an uninterrupted period of at least one year and who thereafter, is employed by or under contract with the Government of the United States or an American institution of research recognized as such by the Attorney General, or is employed by an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof more than 50 per centum of whose stock is owned by an American firm or corporation, or is employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence, no period of absence from the United States shall break the continuity of residence if—

(1) prior to the beginning of such period of employment (whether such period begins before or after his departure from the United States), but prior to the expiration of one year of continuous absence from the United States, the person has established to the satisfaction of the Attorney General that his absence from the United States for such period is to be on behalf of such Government, or for the purpose of carrying on scientific research on behalf of such institution, or to be engaged in the development of such foreign trade and commerce or whose residence abroad is necessary to the protection of the property rights in such countries of such firm or corporation, or to be employed by a public international organization of which the United States is a member by treaty or statute and by which the alien was not employed until after being lawfully admitted for permanent residence; and

(2) such person proves to the satisfaction of the court that his absence from the United States for such period has been for such purpose.

The spouse and dependent unmarried sons and daughters who are members of the household of a person who qualifies for the benefits of this subsection shall also be entitled to such benefits during the period for which they were residing abroad as dependent members of the household of the person.

(c) The granting of the benefits of subsection (b) of this section shall not relieve the petitioner from the requirement of physical presence within the United States for the period specified in subsection (a) of this section, except in the case of those persons who are employed by, or under contract with, the Government of the United States. In the case of a person employed by or under contract with Central Intelligence Agency, the requirement in subsection (b) of an uninterrupted period of at least one year of physical presence in the United States may be complied with by such person at any time prior to filing a petition for naturalization.

(d) No finding by the Attorney General that the petitioner is not deportable shall be accepted as conclusive evidence of good moral character.

(e) In determining whether the petitioner has sustained the burden of establishing good moral character and the other qualifications for citizenship specified in subsection (a) of this section, the court shall not be limited to the petitioner's conduct during the five years preceding the filing of the petition, but may take into consideration as a basis for such determination the petitioner's conduct and acts at any time prior to that period.

(f) Naturalization shall not be granted to a petitioner by a naturalization court while registration proceedings or proceedings to require registration against an organization of which the petitioner is a member or affiliate are pending under section 13 or 14 of the Subversive Activities Control Act of 1950.[170]

(g)(1) [171] Whenever the Director of Central Intelligence, the Attorney General and the Commissioner of Immigration determine that a petitioner otherwise eligible for naturalization has made an extraordinary contribution to the national security of the United States or to the conduct of United States intelligence activities, the petitioner may be naturalized without regard to the residence and physical presence requirements of this section, or to the prohibitions of section 313 of this Act, and no residence within the jurisdiction of the court shall be required: *Provided,* That the petitioner has continuously resided in the United States for at least one year prior to naturalization: *Provided further,* That the provisions of this subsection shall not apply to any alien described in subparagraphs (A) through (D) of paragraph 243(h)(2) of this Act.

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[170] The Subversive Activities Control Board, which administered sections 13 and 14 of the Subversive Activities Control Act of 1950, has been unfunded since June 30, 1973.

[171] Subsection (g) was added by § 601 of the Intelligence Authorization Act for Fiscal Year 1986 (Pub. L. 99-169, Dec. 4, 1985).

(2) A petition for naturalization may be filed pursuant to this subsection in any district court of the United States, without regard to the residence of the petitioner. Proceedings under this subsection shall be conducted in a manner consistent with the protection of intelligence sources, methods and activities.

(3) The number of aliens naturalized pursuant to this subsection in any fiscal year shall not exceed five. The Director of Central Intelligence shall inform the Select Committee on Intelligence and the Committee on the Judiciary of the Senate and the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives within a reasonable time prior to the filing of each petition under the provisions of this subsection.

TEMPORARY ABSENCE OF PERSONS PERFORMING RELIGIOUS DUTIES

SEC. 317. [8 U.S.C. 1428] Any person who is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or any person who is engaged solely by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States as a missionary, brother, nun, or sister, who (1) has been lawfully admitted to the United States for permanent residence, (2) has at any time thereafter and before filing a petition for naturalization been physically present and residing within the United States for an uninterrupted period of at least one year, and (3) has heretofore been or may hereafter be absent temporarily from the United States in connection with or for the purpose of performing the ministerial or priestly functions of such religious denomination, or serving as a missionary, brother, nun, or sister, shall be considered as being physically present and residing in the United States for the purpose of naturalization within the meaning of section 316(a), notwithstanding any such absence from the United States, if he shall in all other respects comply with the requirements of the naturalization law. Such person shall prove to the satisfaction of the Attorney General and the naturalization court that his absence from the United States has been solely for the purpose of performing the ministerial or priestly functions of such religious denomination, or of serving as a missionary, brother, nun, or sister.

PREREQUISITE TO NATURALIZATION; BURDEN OF PROOF

SEC. 318. [8 U.S.C. 1429] Except as otherwise provided in this title, no person shall be naturalized unless he has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this Act. The burden of proof shall be upon such person to show that he entered the United States lawfully, and the time, place, and manner of such entry into the United States, but in presenting such proof he shall be entitled to the production of his immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry, in the custody of the Service. Notwithstanding the provisions of section 405(b), and except as provided in sections 328 and 329 no person shall be naturalized against whom there is outstanding a final finding of deportability pursuant to a warrant of arrest issued under the provisions of this or any other Act; and no petition for naturalization shall be finally heard by a naturalization court if there is pending against the petitioner a deportation proceeding pursuant to a warrant of arrest issued under the provisions of this or any other Act: *Provided,* That the findings of the Attorney General in terminating deportation proceedings or in suspending the deportation of an alien pursuant to the provisions of this Act, shall not be deemed binding in any way upon the naturalization court with respect to the question of whether such person has established his eligibility for naturalization as required by this title.

MARRIED PERSONS AND EMPLOYEES OF CERTAIN NONPROFIT ORGANIZATIONS

SEC. 319. [8 U.S.C. 1430] (a) Any person whose spouse is a citizen of the United States may be naturalized upon compliance with all the requirements of this title except the provisions of paragraph (1) of section 316(a) if such person immediately preceding the date of filing his petition for naturalization has resided continuously, after being lawfully admitted for permanent residence, within the United States for at least three years, and during the three years immediately preceding the date of filing his petition has been living in marital union with the citizen spouse, who has been a United States citizen during all of such period, and has been physically present in the United States for periods totaling at least half of that time and has resided within the State in which he filed his petition for at least six months.

(b) Any person, (1) whose spouse is (A) a citizen of the United States, (B) in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such employment, and (2) who is in the United States at the time of naturalization, and (3) who declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon the termination of such employment abroad of the citizen spouse, may be naturalized upon compliance with all the requirements of the naturalization laws, except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required.

(c) Any person who (1) is employed by a bona fide United States incorporated nonprofit organization which is principally engaged in conducting abroad through communications media the dissemination of information which significantly promotes United States interests abroad and which is recognized as such by the Attorney General, and (2) has been so employed continuously for a period of not less than five years after a lawful admission for permanent residence, and (3) who files his petition for naturalization while so employed or within six months following the termination thereof, and (4) who is in the United States at the time of naturalization, and (5) who declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon termination of such employment, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified period of physical presence within the United States or any State or within the jurisdiction of the court, or proof thereof, shall be required.

(d) Any person who is the surviving spouse of a United States citizen, whose citizen spouse dies during a period of honorable service in an active duty status in the Armed Forces of the United States and who was living in marital union with the citizen spouse at the time of his death, may be naturalized upon compliance with all the requirements of this title except that no prior residence or specified physical presence within the United States, or within the jurisdiction of the naturalization court shall be required.

CHILD BORN OUTSIDE OF UNITED STATES OF ONE ALIEN AND ONE CITIZEN PARENT AT TIME OF BIRTH; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED

SEC. 320. [8 U.S.C. 1431] (a) A child born outside of the United States, one of whose parents at the time of the child's birth was an alien and the other of whose parents then was and never thereafter ceased to be a citizen of the United States, shall, if such alien parent is naturalized, become a citizen of the United States, when—

(1) such naturalization takes place while such child is unmarried and [171A] under the age of eighteen years; and

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[171A] The phrase "unmarried and" was inserted by §§ 14, 15, and 16 of the Immigration and Nationality Act Amendments of 1986, as originally enacted, into sections 320(a)(1), 321(a)(4), and 322(a), respectively of the INA. This was done in conjunction with the striking of paragraph (1) of section 101(c) of the INA made by § 3 of that Act. However, sections 14, 15, and 16 of the Immigration and Nationality Act Amendments of 1986 were repealed by § 8(l) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100–525, 102 Stat. 2618); but, as that repeal was not made retroactive *per se*, under § 108 of title 1, United States Code, the amendments made by the original sections 14, 15, and 16 remain. It appears to have been the Congressional intent to have deleted the inserted phrases to these sections; see subsection (d)(4) of Senate amendment No. 3728 (offered to H.R. 3917, Cong. Rec. p. S16684 (Oct. 18, 1988)), which passed the Senate but

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(2) such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of naturalization or thereafter and begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.

CHILD BORN OUTSIDE OF UNITED STATES OF ALIEN PARENT; CONDITIONS UNDER WHICH CITIZENSHIP AUTOMATICALLY ACQUIRED

SEC. 321. [8 U.S.C. 1432] (a) A child born outside of the United States of alien parents, or of an alien parent and a citizen parent who has subsequently lost citizenship of the United States, becomes a citizen of the United States upon fulfillment of the following conditions:

(1) The naturalization of both parents; or

(2) The naturalization of the surviving parent if one of the parents is deceased; or

(3) The naturalization of the parent having legal custody of the child when there has been a legal separation of the parents or the naturalization of the mother if the child was born out of wedlock and the paternity of the child has not been established by legitimation; and if

(4) Such naturalization takes place while such child is unmarried and [171A] under the age of eighteen years; and

(5) Such child is residing in the United States pursuant to a lawful admission for permanent residence at the time of the naturalization of the parent last naturalized under clause (1) of this subsection, or the parent naturalized under clause (2) or (3) of this subsection, or thereafter begins to reside permanently in the United States while under the age of eighteen years.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.

CHILD BORN OUTSIDE OF UNITED STATES; NATURALIZATION ON PETITION OF CITIZEN PARENT; REQUIREMENTS AND EXEMPTIONS

SEC. 322. [8 U.S.C. 1433] (a) A child born outside of the United States, one or both of whose parents is at the time of petitioning for the naturalization of the child, a citizen of the United States, either by birth or naturalization, may be naturalized if unmarried and [171A] under the age of eighteen years and not otherwise disqualified from becoming a citizen by reason of section 313, 314, 315, or 318 of this Act, and if residing permanently in the United States, with the citizen parent, pursuant to a lawful admission for permanent residence, on the petition of such citizen parent, upon

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failed (as part of a larger amendment) to pass the House of Representatives (Cong. Rec. p. H10613, Oct. 20, 1988). The phrase is now redundant with section 101(c)(1) of the INA, as revived by §8(b) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100–525, 102 Stat. 2617).

compliance with all the provisions of this title, except that no particular period of residence or physical presence in the United States shall be required. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(b) Subsection (a) of this section shall apply to an adopted child only if the child is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.

(c) In the case of an adopted child (1) who is in the United States at the time of naturalization, and (2) one of whose adoptive parents (A) petitions for naturalization of the child under this section, (B) meets the criteria of clauses (A), (B), and (C) of section 319(b)(1), and (C) declares before the naturalization court in good faith an intention to take up residence within the United States immediately upon the termination of the employment described in section 319(b)(1)(B), no specified period of residence within the jurisdiction of the naturalization court or proof thereof shall be required.

[Sec. 323. Repealed. [172]]

FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP

Sec. 324. [8 U.S.C. 1435] (a) Any person formerly a citizen of the United States who (1) prior to September 22, 1922, lost United

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[172] Section 323 (8 U.S.C. 1434) was repealed by section 7 of Pub. L. 95–417 (Oct. 5, 1978, 92 Stat. 918). Previously, § 323 read as follows:

CHILDREN ADOPTED BY UNITED STATES CITIZENS

Sec. 323. (a) An adopted child may, if not otherwise disqualified from becoming a citizen by reason of section 313, 314, 315, or 318 of this Act, be naturalized before reaching the age of eighteen years upon the petition of the adoptive parent or parents, upon compliance with all the provisions of this title, if the adoptive parent or parents are citizens of the United States, and the child—

(1) was lawfully admitted to the United States for permanent residence;

(2) was adopted before attaining the age of sixteen years; and

(3) subsequent to such adoption has resided continuously in the United States in legal custody of the adoptive parent or parents for two years prior to the date of filing such petition.

(b) In lieu of the residence and physical presence requirements of section 316(a) of this Act such child shall be required to establish only two years' residence and one year's physical presence in the United States during the two-year period immediately preceding the filing of the petition. If the child is of tender years he may be presumed to be of good moral character, attached to the principles of the Constitution, and well disposed to the good order and happiness of the United States.

(c) Any such adopted child (1) one of whose adoptive parents is (A) a citizen of the United States, (B) in the Armed Forces of the United States or in the employment of the Government of the United States, or of an American institution of research recognized as such by the Attorney General, or of an American firm or corporation engaged in whole or in part in the development of foreign trade and commerce of the United States, or a subsidiary thereof, or of a public international organization in which the United States participates by treaty or statute, or is authorized to perform the ministerial or priestly functions of a religious denomination having a bona fide organization within the United States, or is engaged solely as a missionary by a religious denomination or by an interdenominational mission organization having a bona fide organization within the United States, and (C) regularly stationed abroad in such service or employment, and (2) who is in the United States at the time of naturalization, and (3) whose citizen adoptive parent declares before the naturalization court in good faith an intention to have such child take up residence within the United States immediately upon the termination of such service or employment abroad of such citizen adoptive parent, may be naturalized upon compliance with all the requirements of the naturalization laws except that no prior residence or specified period of physical presence within the United States or within the jurisdiction of the naturalization court or proof thereof shall be required, and paragraph (3) of subsection (a) of this section shall not be applicable.

States citizenship by marriage to an alien, or by the loss of United States citizenship of such person's spouse, or (2) on or after September 22, 1922, lost United States citizenship by marriage to an alien ineligible to citizenship, may if no other nationality was acquired by an affirmative act of such person other than by marriage be naturalized upon compliance with all requirements of this title, except—

(1) no period of residence or specified period of physical presence within the United States or within the State where the petition is filed shall be required;

(2) the petition need not set forth that it is the intention of the petitioned to reside permanently within the United States;

(3) the petition may be filed in any court having naturalization jurisdiction, regardless of the residence of the petitioner;

(4) the petition may be heard at any time after filing if there is attached to the petition at the time of filing a certificate from a naturalization examiner stating that the petitioner has appeared before such examiner for examination.

Such person, or any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, shall have, from and after her naturalization, the status of a native-born or naturalized citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided,* That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(a) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(b) No person who is otherwise eligible for naturalization in accordance with the provisions of subsection (a) of this section shall be naturalized unless such person shall establish to the satisfaction of the naturalization court that she has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States for a period of not less than five years immediately preceding the date of filing a petition for naturalization and up to the time of admission to citizenship, and, unless she has resided continuously in the United States since the date of her marriage, has been lawfully admitted for permanent residence prior to filing her petition for naturalization.

(c)(1) A woman who was a citizen of the United States at birth and (A) who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 22, 1922, to an alien, or by her marriage on or after such date to an alien ineligible to citizenship, (B) whose marriage to such alien shall have terminated subsequent to January 12, 1941, and (C) who has not acquired by an affirmative act other than by marriage any other nationality, shall, from and after taking the oath of allegiance required by section 337 of this title, be a citizen of the United States and have the status of a citizen of the United States by birth, without filing a petition for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313: *Provided,* That nothing contained herein or in any other provision of law shall be construed as conferring United States citizenship retroactively upon such person, or upon any person who was naturalized in accordance with the provisions of section 317(b) of the Nationality Act of 1940, during any period in which such person was not a citizen.

(2) Such oath of allegiance may be taken abroad before a diplomatic or consular officer of the United States, or in the United States before the judge or clerk of a naturalization court.

(3) Such oath of allegiance shall be entered in the records of the appropriate embassy, legation, consulate, or naturalization court, and, upon demand, a certified copy of the proceedings, including a copy of the oath administered, under the seal of the embassy, legation, consulate, or naturalization court, shall be delivered to such woman at a cost not exceeding $5, which certified copy shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department or agency of the Government of the United States.

NATIONALS BUT NOT CITIZENS OF THE UNITED STATES; RESIDENCE WITHIN OUTLYING POSSESSIONS

SEC. 325. [8 U.S.C. 1436] A person not a citizen who owes permanent allegiance to the United States, and who is otherwise qualified, may, if he becomes a resident of any State, be naturalized upon compliance with the applicable requirements of this title, except that in petitions for naturalization filed under the provisions of this section residence and physical presence within the United States within the meaning of this title shall include residence and physical presence within any of the outlying possessions of the United States.

RESIDENT PHILIPPINE CITIZENS EXCEPTED FROM CERTAIN REQUIREMENTS

SEC. 326. [8 U.S.C. 1437] Any person who (1) was a citizen of the Commonwealth of the Philippines on July 2, 1946, (2) entered the United States prior to May 1, 1934, and (3) has, since such entry, resided continuously in the United States shall be regarded as having been lawfully admitted to the United States for permanent residence for the purpose of petitioning for naturalization under this title.

FORMER UNITED STATES CITIZENS LOSING CITIZENSHIP BY ENTERING THE ARMED FORCES OF FOREIGN COUNTRIES DURING WORLD WAR II

SEC. 327. [8 U.S.C. 1438] (a) Any person who, (1) during World War II and while a citizen of the United States, served in the military, air, or naval forces of any country at war with a country with which the United States was at war after December 7, 1941, and before September 2, 1945, and (2) has lost United States citizenship by reason of entering or serving in such forces, or taking an oath or obligation for the purpose of entering such forces, may, upon compliance with all the provisions of title III, of this Act, except section 316(a), and except as otherwise provided in subsection (b), be naturalized by taking before any naturalization court specified in section 310(a) of this title the oath required by section 337 of this title. Certified copies of such oath shall be sent by such court to the Department of State and to the Department of Justice.

(b) No person shall be naturalized under subsection (a) of this section unless he—

(1) is, and has been for a period of at least five years immediately preceding taking the oath required in subsection (a), a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and

(2) has been lawfully admitted to the United States for permanent residence and intends to reside permanently in the United States.

(c) Any person naturalized in accordance with the provisions of this section, or any person who was naturalized in accordance with the provisions of section 323 of the Nationality Act of 1940, shall have, from and after such naturalization, the status of a native-born, or naturalized, citizen of the United States, whichever status existed in the case of such person prior to the loss of citizenship: *Provided,* That nothing contained herein, or in any other provision of law, shall be construed as conferring United States citizenship retroactively upon any such person during any period in which such person was not a citizen.

(d) For the purposes of this section, World War II shall be deemed to have begun on September 1, 1939, and to have terminated on September 2, 1945.

(e) This section shall not apply to any person who during World War II served in the armed forces of a country while such country was at war with the United States.

NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

SEC. 328. [8 U.S.C. 1439] (a) A person who has served honorably at any time in the Armed Forces of the United States for a period or periods aggregating three years, and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, and without having been physically present in the United States for any specified period, if such petition is filed while the petitioner is still in the service or within six months after the termination of such service.

(b) A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

(1) no residence within the jurisdiction of the court shall be required;

(2) notwithstanding section 318 insofar as it relates to deportability, such petitioner may be naturalized immediately if the petitioner be then actually in the Armed Forces of the United

States, and if prior to the filing of the petition, the petitioner shall have appeared before and been examined by a representative of the Service;

(3) the petitioner shall furnish to the Attorney General, prior to the final hearing upon his petition, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.

(c) In the case such petitioner's service was not continuous, the petitioner's residence in the United States and State, good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during any period within five years immediately preceding the date of filing such petition between the periods of petitioner's service in the Armed Forces, shall be alleged in the petition filed under the provisions of subsection (a) of this section, and proved at the final hearing thereon. Such allegation and proof shall also be made as to any period between the termination of petitioner's service and the filing of the petition for naturalization.

(d) The petitioner shall comply with the requirements of section 316(a) of this title, if the termination of such service has been more than six months preceding the date of filing the petition for naturalization, except that such service within five years immediately preceding the date of filing such petition shall be considered as residence and physical presence within the United States.

(e) Any such period or periods of service under honorable conditions, and good moral character, attachment to the principles of the Constitution of the United States, and favorable disposition toward the good order and happiness of the United States, during such service, shall be proved by duly authenticated copies of the records of the executive departments having custody of the records of such service, and such authenticated copies of records shall be accepted in lieu of compliance with the provisions of section 316(a).

NATURALIZATION THROUGH ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

SEC. 329. [8 U.S.C. 1440] (a) [173] Any person who, while an alien or a noncitizen national of the United States, has served honorably

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[173] Section 4 of the Act of June 30, 1950, (64 Stat. 316, as amended, 8 U.S.C. 1440 note) provides: "Notwithstanding the dates or periods of service specified and designated in section 329 of the Immigration and Nationality Act, the provisions of that section are applicable to aliens enlisted or reenlisted pursuant to the provisions of this Act and who have completed five or more years of military service, if honorably discharged therefrom. Any alien enlisted or reenlisted pursuant to the provisions of this Act who subsequently enters the United States, American Samoa, Swains Island, or the Canal Zone, pursuant to military orders shall, if otherwise qualified for citizenship, and after completion of five or more years of military service, if honorably

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in an active-duty status in the military, air, or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States, the Canal Zone, America Samoa, or Swains Island, whether or not he has been lawfully admitted to the United States for permanent residence, or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however,* That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military, air, or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section. No period of service in the Armed Forces shall be made the basis of a petition for naturalization under this section if the applicant has previously been naturalized on the basis of the same period of service.

(b) A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that— [174]

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discharged therefrom, be deemed to have been lawfully admitted to the United States for permanent residence within the meaning of such section 329(a)."

Note that under an agreement between the United States and the Republic of the Philippines of December 13, 1952 [TIAS 2931, 5 UST 373; as amended by TIAS 3047, 5 UST 1714, and by TIAS 3067, 5 UST 2006], the United States obtained the right to voluntarily enlist 2,000 Filipinos into the U.S. Navy each year, for four and six year terms and up to 400 Filipinos in the U.S. Coast Guard.

[174] Section 3 of the Act of October 24, 1968 (82 Stat. 1343–1344) provides as follows:

SEC. 3. Notwithstanding any other provision of law, no clerk of a United States court shall charge or collect a naturalization fee from an alien who has served in the military, air, or naval forces of the United States during a period beginning February 28, 1961, and ending on the date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and who is applying for naturalization during such periods under section 329 of the Immigration and Nationality Act, as amended by this Act, for filing a petition for naturalization or issuing a certificate of naturalization upon his admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this section shall be made to the Attorney General as in the case of other reports required of clerks of courts by title III of the Immigration and Nationality Act.

(1) he may be naturalized regardless of age, and notwithstanding the provisions of section 318 as they relate to deportability and the provisions of section 331;

(2) no period of residence or specified period of physical presence within the United States or any State shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner; and

(4) service in the military, air, or naval forces of the United States shall be proved by a duly authenticated certification from the executive department under which the petitioner served or is serving, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or during a period beginning June 25, 1950, and ending July 1, 1955, or during a period beginning February 28, 1961, and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities, or thereafter during any other period which the President by Executive order shall designate as a period in which Armed Forces of the United States are or were engaged in military operations involving armed conflict with a hostile foreign force, and was separated from such service under honorable conditions.

(c) Citizenship granted pursuant to this section may be revoked in accordance with section 340 of this title if at any time subsequent to naturalization the person is separated from the military, air, or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation.

CONSTRUCTIVE RESIDENCE THROUGH SERVICE ON CERTAIN UNITED STATES VESSELS

SEC. 330. [8 U.S.C. 1441] Any periods of time during all of which a person who was previously lawfully admitted for permanent residence has served honorably or with good conduct, in any capacity other than as a member of the Armed Forces of the United States, (A) on board a vessel operated by the United States, or an agency thereof, the full legal and equitable title to which is in the United States; or (B) on board a vessel whose home port is in the United States, and (i) which is registered under the laws of the United States, or (ii) the full legal and equitable title to which is in a citizen of the United States, or a corporation organized under the laws of any of the several States of the United States, shall be deemed residence and physical presence within the United States within the meaning of section 316(a) of this title, if such service occurred within five years immediately preceding the date such person shall file a petition for naturalization. Service on vessels described in clause (A) of this subsection [175] shall be proved by duly authenticated copies of the records of the executive departments or agency having custody of records of such service. Service on vessels described in clause (B) of this subsection [175] may be proved by certificates from the masters of such vessels.

ALIEN ENEMIES; NATURALIZATION UNDER SPECIFIED CONDITIONS AND PROCEDURE

SEC. 331. [8 U.S.C. 1442] (a) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war may, after his loyalty has been fully established upon investigation by the Attorney General, be naturalized as a citizen of the United States if such alien's petition for naturalization shall be pending at the beginning of the state of war and the petitioner is otherwise entitled to admission to citizenship.

(b) An alien embraced within this section shall not have his petition for naturalization called for a hearing, or heard, except after ninety days' notice given by the clerk of the court to the Attorney General to be represented at the hearing, and the Attorney General's objection to such final hearing shall cause the petition to be continued from time to time for so long as the Attorney General may require.

(c) The Attorney General may, in his discretion, upon investigation fully establishing the loyalty of any alien enemy who did not have a petition for naturalization pending at the beginning of the state of war, except such alien enemy from the classification of alien enemy for the purposes of this title, and thereupon such alien shall have the privilege of filing a petition for naturalization.

(d) An alien who is a native, citizen, subject, or denizen of any country, state, or sovereignty with which the United States is at war shall cease to be an alien enemy within the meaning of this section upon the determination by proclamation of the President, or by concurrent resolution of the Congress, that hostilities between the United States and such country, state, or sovereignty have ended. Notwithstanding the provisions of section 405(b), this subsection shall also apply to the case of any such alien whose petition for naturalization was filed prior to the effective date of this Act and which is still pending on that date.

(e) Nothing contained herein shall be taken or construed to interfere with or prevent the apprehension and removal, consistent with law, of any alien enemy at any time prior to the actual naturalization of such alien.

PROCEDURAL AND ADMINISTRATIVE PROVISIONS; EXECUTIVE FUNCTIONS

SEC. 332. [8 U.S.C. 1443] (a) The Attorney General shall make such rules and regulations as may be necessary to carry into effect the provisions of this chapter and is authorized to prescribe the scope and nature of the examination of petitioners for naturalization as to their admissibility to citizenship for the purpose of making appropriate recommendations to the naturalization courts.

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[175] Reference should be to this "section" rather than to this "subsection".

Such examination, in the discretion of the Attorney General, and under such rules and regulations as may be prescribed by him, may be conducted before or after the applicant has filed his petition for naturalization. Such examination shall be limited to inquiry concerning the applicant's residence, physical presence in the United States, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, ability to read, write, and speak English, and other qualifications to become a naturalized citizen as required by law, and shall be uniform throughout the United States.

(b) The Attorney General is authorized to promote instruction and training in citizenship responsibilities of applicants for naturalization including the sending of names of candidates for naturalization to the public schools, preparing and distributing citizenship textbooks to such candidates as are receiving instruction in preparation for citizenship within or under the supervision of the public schools, preparing and distributing monthly an immigration and naturalization bulletin and securing the aid of and cooperating with official State and national organizations, including those concerned with vocational education.

(c) The Attorney General shall prescribe and furnish such forms as may be required to give effect to the provisions of this chapter, and only such forms as may be so provided shall be legal. All certificates of naturalization and of citizenship shall be printed on safety paper and shall be consecutively numbered in separate series.

(d) Employees of the Service may be designated by the Attorney General to administer oaths and to take depositions without charge in matters relating to the administration of the naturalization and citizenship laws. In cases where there is a likelihood of unusual delay or, of hardship, the Attorney General may, in his discretion, authorize such depositions to be taken before a postmaster without charge, or before a notary public or other person authorized to administer oaths for general purposes.

(e) A certificate of naturalization or of citizenship issued by the Attorney General under the authority of this title shall have the same effect in all courts, tribunals, and public offices of the United States, at home and abroad, of the District of Columbia, and of each State, Territory, and outlying possession of the United States, as a certificate of naturalization or of citizenship issued by a court having naturalization jurisdiction.

(f) Certifications and certified copies of all papers, documents, certificates, and records required or authorized to be issued, used, filed, recorded, or kept under any and all provisions of this Act shall be admitted in evidence equally with the originals in any and all cases and proceedings under this Act and in all cases and proceedings in which the originals thereof might be admissible as evidence.

(g) The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Attorney General.

PHOTOGRAPHS

SEC. 333. [8 U.S.C. 1444] (a) Three identical photographs of the applicant shall be signed by and furnished by each petitioner for naturalization or citizenship. One of such photographs shall be affixed by the clerk of the court to the original certificate of naturalization issued to the naturalized citizen and one to the duplicate certificate of naturalization required to be forwarded to the Service.

(b) Three identical photographs of the applicant shall be furnished by each applicant for—

(1) a record of lawful admission for permanent residence to be made under section 249(a);

(2) a certificate of derivative citizenship;

(3) a certificate of naturalization or of citizenship;

(4) a special certificate of naturalization;

(5) a certificate of naturalization or of citizenship, in lieu of one lost, mutilated, or destroyed;

(6) a new certificate of citizenship in the new name of any naturalized citizen who, subsequent to naturalization, has had his name changed by order of a court of competent jurisdiction or by marriage; and

(7) a declaration of intention.

One such photograph shall be affixed to each such certificate issued by the Attorney General and one shall be affixed to the copy of such certificate retained by the Service.

PETITION FOR NATURALIZATION; DECLARATION OF INTENTION

SEC. 334. [8 U.S.C. 1445] (a) An applicant for naturalization shall make and file in the office of the clerk of a naturalization court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting, if physically able to write, which petition shall be on a form prescribed by the Attorney General and shall include averments of all facts which in the opinion of the Attorney General may be material to the applicant's naturalization, and required to be proved upon the hearing of such petition.

(b) No person shall file a valid petition for naturalization unless (1) he shall have attained the age of eighteen years and (2) he shall have first filed an application therefor at an office of the Service in the form and manner prescribed by the Attorney General. An application for petition for naturalization by an alien shall contain an averment of lawful admission for permanent residence.

(c) Petitions for naturalization may be made and filed during the term time or vacation of the naturalization court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court.

(d) If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition required by subsection (a) such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy.

(e) Before a petition for naturalization may be made outside of the office of the clerk of the court, pursuant to subsection (d) above, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, pursuant to sections 336(a) and 337(c) respectively of this title, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law.

(f) Any alien over eighteen years of age who is residing in the United States pursuant to a lawful admission for permanent residence may, upon an application prescribed, filed with, and approved by the Service, make and file in duplicate in the office of the clerk of court, regardless of the alien's place of residence in the United States, a signed declaration of intention to become a citizen of the United States, in such form as the Attorney General shall prescribe. Nothing in this subsection shall be construed as requiring any such alien to make and file a declaration of intention as a condition precedent to filing a petition for naturalization nor shall any such declaration of intention be regarded as conferring or having conferred upon any such alien United States citizenship or nationality or the right to United States citizenship or nationality, nor shall such declaration be regarded as evidence of such alien's lawful admission for permanent residence in any proceeding, action, or matter arising under this or any other Act.

INVESTIGATION OF PETITIONERS; PRELIMINARY EXAMINATIONS ON PETITIONS

SEC. 335. [8 U.S.C. 1446] (a) At any time prior to the holding of the final hearing on a petition for naturalization provided for by section 336(a), an employee of the Service, or of the United States designated by the Attorney General, shall conduct a personal investigation of the person petitioning for naturalization in the vicinity or vicinities in which such person has maintained his actual place of abode and in the vicinity or vicinities in which such person has been employed or has engaged in business or work for at least five years immediately preceding the filing of his petition for naturalization. The Attorney General may, in his discretion, waive a personal investigation in an individual case or in such cases or classes of cases as may be designated by him.

(b) The Attorney General shall designate employees of the Service to conduct preliminary examinations upon petitions for naturalization to any naturalization court and to make recommendations thereon to such court. For such purposes any such employee so designated is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to administer oaths, including the oath of the petitioner for naturalization, and to require by subpena the attendance and testimony of witnesses, including petitioner, before such employee so designated and the production of relevant books, papers, and documents, and to that end may invoke the aid of any court exercising naturalization jurisdiction as specified in section 310 of this title; and any such court may, in the event of neglect or refusal to respond to a subpena issued by any such employee so designated or refusal to testify before such employee so designated issue an order requiring such person to appear before such employee so designated, produce relevant books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. The record of the preliminary examination authorized by this subsection shall be admissible as evidence in any final hearing conducted by a naturalization court designated in section 310 of this title.

(c) The record of the preliminary examination upon any petition for naturalization may, in the discretion of the Attorney General, be transmitted to the Attorney General and the recommendation with respect thereto of the employee designated to conduct such preliminary examination shall when made also be transmitted to the Attorney General.

(d) The recommendation of the employee designated to conduct any such preliminary examination shall be submitted to the court at the hearing upon the petition and shall include a recommendation that the petition be granted, or denied, or continued, with reasons therefor. In any case in which the recommendation of the Attorney General does not agree with that of the employee designated to conduct such preliminary examination, the recommendations of both such employee and the Attorney General shall be submitted to the court at the hearing upon the petition, and the officer of the Service in attendance at such hearing shall, at the request of the court, present both the views of such employee and those of the Attorney General with respect to such petition to the court. The recommendations of such employee and of the Attorney General shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by such employee or the Attorney General, as the case may be. The judge to whom such recommendations are submitted shall, if he approves such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of each such list shall thereafter be filed permanently of record in such court and the duplicate of each such list shall be sent by the clerk of such court to the Attorney General.

(e) After the petition for naturalization has been filed in the office of the clerk of court, the petitioner shall not be permitted to withdraw his petition, except with the consent of the Attorney General. In cases where the Attorney General does not consent to withdrawal of the petition, the court shall determine the petition on its merits and enter a final order accordingly. In cases where the petitioner fails to prosecute his petition, the petition shall be decided upon its merits unless the Attorney General moves that the petition be dismissed for lack of prosecution.

(f)(1) A petitioner for naturalization who removes from the jurisdiction of the court in which his petition for naturalization is pending may, at any time thereafter, make application to the court for transfer of the petition to a naturalization court exercising jurisdiction over the petitioner's place of residence, or to any other naturalization court if the petition was not required to be filed in a naturalization court exercising jurisdiction over the petitioner's place of residence: *Provided,* That such transfer shall not be made without the consent of the Attorney General, and of the court to which the petition is transferred.

(2) Where transfer of the petition is authorized the clerk of court in which the petition was filed shall forward a certified copy of the petition and the original record in the case to the clerk of court to which the petition is transferred, and proceedings on the petition shall thereafter continue as though the petition had originally been filed in the court to which transferred.

FINAL HEARING IN OPEN COURT UPON PETITIONS FOR NATURALIZATION; FINAL ORDER UNDER THE HAND OF THE COURT ENTERED UPON RECORD; EXAMINATION OF PETITIONER BEFORE THE COURT

SEC. 336. [8 U.S.C. 1447] (a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the petitioner, except as provided in subsection (b) of this section, shall be examined under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges of the court at such place as may be designated by the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner under oath before the court and in the presence of the court shall not apply in any case where an employee designated under section 335(b) has conducted the preliminary examination authorized by subsection (b) of section 335; except, that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner under oath before the court and in the presence of the court.

(c) The Attorney General shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, including the petitioner, produce evidence, and be heard in opposition to, or in favor of, the granting of any petition in naturalization proceedings.

(d) The clerk of the court shall, if the petitioner requests it at the time of filing the petition for naturalization, issue a subpena for the witnesses named by such petitioner to appear upon the day set for the final hearing, but in case such witnesses cannot be produced upon the final hearing other witnesses may be summoned upon notice to the Attorney General, in such manner and at such time as the Attorney General may by regulation prescribe.

(e) It shall be lawful at the time and as a part of the naturalization of any person, for the court, in its discretion, upon the bona fide prayer of the petitioner included in the petition for naturalization of such persons, to make a decree changing the name of said person, and the certificate of naturalization shall be issued in accordance therewith.

OATH OF RENUNCIATION AND ALLEGIANCE

SEC. 337. [8 U.S.C. 1448] (a) A person who has petitioned for naturalization shall, in order to be and before being admitted to citizenship, take in open court an oath[176] (1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the petitioner was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5) (A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law. Any such person shall be required to take an oath containing the substance of clauses (1) through (5) of the preceding sentence, except that a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to the bearing of arms in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clauses (5)(B) and (5)(C), and a person who shows by clear and convincing evidence to the satisfaction of the naturalization court that he is opposed to any type of service in the Armed Forces of the United States by reason of religious training and belief shall be required to take an oath containing the substance of clauses (1) through (4) and clause (5)(C). The term "religious training and belief" as used in this section shall mean an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. In the case of the naturalization of a child under the provisions of section 322 of this title the naturalization court may waive the taking of the oath if in the opinion of the court the child is unable to understand its meaning.

(b) In case the person petitioning for naturalization has borne any hereditary title, or has been of any of the orders of nobility in any foreign state, the petitioner shall in addition to complying with the requirements of subsection (a) of this section, make under oath in open court in the court in which the petition for naturalization is made, an express renunciation of such title or order of nobility, and such renunciation shall be recorded in the court as a part of such proceedings.

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[176] Section 2 of the Act of Feb. 29, 1952 (36 U.S.C. 154) provides that "Either at the time of the rendition of the decree of naturalization or at such other time as the judge may fix, the judge or someone designated by him shall address the newly naturalized citizen upon the form and genius of our Government and the privileges and responsibilities of citizenship; it being the intent and purpose of this section to enlist the aid of the judiciary, in cooperation with civil and educational authorities, and patriotic organizations in a continuous effort to dignify and emphasize the significance of citizenship.".

(c) If the petitioner is prevented by sickness or other disability from being in open court, the oath required to be taken by subsection (a) of this section may be taken before a judge of the court at such place as may be designated by the court.

CERTIFICATE OF NATURALIZATION; CONTENTS

SEC. 338. [8 U.S.C. 1449] A person admitted to citizenship by a naturalization court in conformity with the provisions of this title shall be entitled upon such admission to receive from the clerk of such court a certificate of naturalization, which shall contain substantially the following information: Number of petition for naturalization; number of certificate of naturalization; date of naturalization; name, signature, place of residence, autographed photograph, and personal description of the naturalized person, including age, sex, marital status, and country of former nationality; title, venue and location of the naturalization court; statement that the court, having found that the petitioner intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title, had complied in all respects with all of the applicable provisions of the naturalization laws of the United States, and was entitled to be admitted a citizen of the United States of America, thereupon ordered that the petitioner be admitted as a citizen of the United States of America; attestation of the clerk of the naturalization court; and seal of the court.

FUNCTIONS AND DUTIES OF CLERKS

SEC. 339. [8 U.S.C. 1450] (a) It shall be the duty of the clerk of each and every naturalization court to forward to the Attorney General a duplicate of each petition for naturalization within thirty days after the close of the month in which such petition was filed, and to forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

(b) It shall be the duty of the clerk of each and every naturalization court to issue to any person admitted by such a court to citizenship a certificate of naturalization and to forward to the Attorney General within thirty days after the close of the month in which such certificate was issued, a duplicate thereof, and to make and keep on file in the clerk's office a stub for each certificate so issued, whereon shall be entered a memorandum of all the essential facts set forth in such certificate, and to forward a duplicate of each such stub to the Attorney General within thirty days after the close of the month in which such certificate was issued.

(c) It shall be the duty of the clerk of each and every naturalization court to report to the Attorney General, within thirty days after the close of the month in which the final hearing and decision of the court was had, the name and number of the petition of each and every person who shall be denied naturalization together with the cause of such denial.

(d) Clerks of courts shall be responsible for all blank certificates of naturalization received by them from time to time from the Attorney General, and shall account to the Attorney General for them whenever required to do so. No certificate of naturalization received by any clerk of court which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificates shall be returned to the Attorney General.

(e) It shall be the duty of the clerk of each and every naturalization court to cause to be filed in chronological order in separate volumes, indexed, consecutively numbered, and made a part of the records of such court, all declarations of intention and petitions for naturalization.

REVOCATION OF NATURALIZATION

SEC. 340. [8 U.S.C. 1451] (a) It shall be the duty of the United States attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court specified in subsection (a) of section 310 of this title in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground that such order and certificate of naturalization were illegally procured or were procured by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively: *Provided,* That refusal on the part of a naturalized citizen within a period of ten years following his naturalization to testify as a witness in any proceeding before a congressional committee concerning his subversive activities, in a case where such person has been convicted for contempt for such refusal, shall be held to constitute a ground for revocation of such person's naturalization under this subsection as having been procured by concealment of a material fact or by willful misrepresentation. If the naturalized citizen does not reside in any judicial district in the United States at the time of bringing such suit, the proceedings may be instituted in the United States District Court for the District of Columbia or in the United States district court in the judicial district in which such person last had his residence.

(b) The party to whom was granted the naturalization alleged to have been illegally procured or procured by concealment of a material fact or by willful misrepresentation shall, in any such proceedings under subsection (a) of this section, have sixty days' personal notice, unless waived by such party, in which to make answer to the petition of the United States; and if such naturalized person be absent from the United States or from the judicial district in which such person last had his residence, such notice shall be given either by personal service upon him or by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

(c) If a person who shall have been naturalized after December 24, 1952 shall within five years next following such naturalization become a member of or affiliated with any organization, membership in or affiliation with which at the time of naturalization would have precluded such person from naturalization under the provisions of section 313, it shall be considered prima facie evidence that such person was not attached to the principles of the Constitution of the United States and was not well disposed to the good order and happiness of the United States at the time of naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

(d) If a person who shall have been naturalized shall, within one year [177] after such naturalization, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered prima facie evidence of a lack of intention on the part of such person to reside permanently in the United States at the time of filing his petition for naturalization, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the revocation and setting aside of the order admitting such person to citizenship and the cancellation of the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively. The diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with statements of the names of those persons within their respective jurisdictions who have been so naturalized and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to revoke and set aside the order admitting to citizenship and to cancel the certificate of naturalization.

[NOTE.—Former subsection (e) was stricken by § 9(dd)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2621) and subsequent subsections were redesignated accordingly.]

(e) Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship under the provisions of subsection (a) of this section on the ground that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which he may have, now has, or may hereafter acquire under and by virtue of such naturalization of such parent or spouse, regardless of whether such person is residing within or without the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship. Any person who claims United States citizenship through the naturalization of a parent or spouse in whose case there is a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization under the provisions of subsections (c) or (d) of this section, or under the provisions of section 329(c) of this title on any ground other than that the order and certificate of naturalization were procured by concealment of a material fact or by willful misrepresentation, shall be deemed to have lost and to lose his citizenship and any right or privilege of citizenship which would have been enjoyed by such person had there not been a revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization, unless such person is residing in the United States at the time of the revocation and setting aside of the order admitting such parent or spouse to citizenship and the cancellation of the certificate of naturalization.

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[177] § 17 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3653) substituted "one year" for "five years", but, under § 23(f) of such Act, as amended by § 8(n) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2619), this change does not apply to individuals who have taken up residence outside the United States before November 14, 1986.

(f) When a person shall be convicted under section 1425 of title 18 of the United States Code of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offence to make such adjudication.

(g) Whenever an order admitting an alien to citizenship shall be revoked and set aside or a certificate of naturalization shall be canceled, or both, as provided in this section, the court in which such judgment or decree is rendered shall make an order canceling such certificate and shall send a certified copy of such order to the Attorney General. In case such certificate was not originally issued by the court making such order, it shall direct the clerk of court in which the order is revoked and set aside to transmit a copy of such order and judgment to the court out of which such certificate of naturalization shall have been originally issued. It shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of naturalization, if there be any, upon the records and to notify the Attorney General of the entry of such order and of such cancellation. A person holding a certificate of naturalization or citizenship which has been canceled as provided by this section shall upon notice by the court by which the decree of cancellation was made, or by the Attorney General, surrender the same to the Attorney General.

(h) The provisions of this section shall apply not only to any naturalization granted and to certificates of naturalization and citizenship issued under the provisions of this title, but to any naturalization heretofore granted by any court, and to all certificates of naturalization and citizenship which may have been issued heretofore by any court or by the Commissioner based upon naturalization granted by any court, or by a designated representative of the Commissioner under the provisions of section 702 of the Nationality Act of 1940, as amended, or by such designated representative under any other Act.

(i) Nothing contained in this section shall be regarded as limiting, denying, or restricting the power of any naturalization court, by or in which a person has been naturalized, to correct, reopen, alter, modify, or vacate its judgment or decree naturalizing such person, during the term of such court or within the time prescribed by the rules of procedure or statutes governing the jurisdiction of the court to take such action.

CERTIFICATES OF CITIZENSHIP OR U.S. NON-CITIZEN NATURAL STATUS; PROCEDURE

SEC. 341. [8 U.S.C. 1452] (a) A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes, as amended by section 1 of the Act of May 24, 1934 (48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of subsection (c), (d), (e), (g), or (i) of section 201 of the Nationality Act of 1940, as amended (54 Stat. 1138; 8 U.S.C. 601), or of the Act of May 7, 1934 (48 Stat. 667), or of paragraph (c), (d), (e), or (g) of section 301 of this title, or under the provisions of the Act of August 4, 1937 (50 Stat. 558), or under the provisions of section 203 or 205 of the Nationality Act of 1940 (54 Stat. 1139; 8 U.S.C. 603, 605), or under the provisions of section 303 of this title, may apply to the Attorney General for a certificate of citizenship. Upon proof to the satisfaction of the Attorney General that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this Act of a petitioner for naturalization, such individual shall be furnished by the Attorney General with a certificate of citizenship, but only if such individual is at the time within the United States.

(b)[178] A person who claims to be a national, but not a citizen, of the United States may apply to the Secretary of State for a certificate of non-citizen national status. Upon—

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[178] Subsection (b) was added by subsection (a)(3) of § 16 of Pub. L. 99-396 (Aug. 27, 1986, 100 Stat. 843). Subsection (c) of that section provides as follows:

Continued

(1) proof to the satisfaction of the Secretary of State that the applicant is a national, but not a citizen, of the United States, and

(2) in the case of such a person born outside of the United States or its outlying possessions, taking and subscribing, before an immigration officer within the United States or its outlying possessions, to the oath of allegiance required by this Act of a petitioner for naturalization,

the individual shall be furnished by the Secretary of State with a certificate of non-citizen national status, but only if the individual is at the time within the United States or its outlying possessions.

(c)(1) [179] The adoptive citizen parent or parents of a child described in paragraph (2) may apply to the Attorney General for a certificate of citizenship for the child. Upon proof to the satisfaction of the Attorney General that the applicant and spouse, if married, are citizens of the United States, whether by birth or by naturalization, and that the child is described in paragraph (2), the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship, but only if the child is at the time within the United States.

(2) A child described in this paragraph is a child born outside of the United States who—

(A) is under the age of 18 years,

(B) is adopted before the child reached the age of 16 years by a parent who is a citizen of the United States, either by birth or naturalization, and

(C) is residing in the United States in the custody of the adopting citizen parent, pursuant to a lawful admission for permanent residence.

CANCELLATION OF CERTIFICATES ISSUED BY THE ATTORNEY GENERAL, THE COMMISSIONER OR A DEPUTY COMMISSIONER; ACTION NOT TO AFFECT CITIZENSHIP STATUS

SEC. 342. [8 U.S.C. 1453] The Attorney General is authorized to cancel any certificate of citizenship, certificate of naturalization, copy of a declaration of intention, or other certificate, document or record heretofore issued or made by the Commissioner or a Deputy Commissioner or hereafter made by the Attorney General if it shall appear to the Attorney General's satisfaction that such document or record was illegally or fraudulently obtained from, or was created through illegality or by fraud practiced upon, him or the Commissioner or a Deputy Commissioner; but the person for or to whom such document or record has been issued or made shall be given at such person's last-known place of address written notice of the intention to cancel such document or record with the reasons therefor and shall be given at least sixty days in which to show cause why such document or record should not be canceled. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

(c) The Secretary of State may not impose a fee exceeding $35 for the processing of an application for a certificate of non-citizen national status under section 341(b) of the Immigration and Nationality Act filed before the end of fiscal year 1987.

[179] Subsection (c) was added by § 22 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1986, 100 Stat. 3658), as amended by § 8(q) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2618).

DOCUMENTS AND COPIES ISSUED BY THE ATTORNEY GENERAL

SEC. 343. [8 U.S.C. 1454] (a) [180] If any certificate of naturalization or citizenship issued to any citizen or any declaration of intention furnished to any declarant is lost, mutilated, or destroyed, the citizen or declarant may make application to the Attorney General for a new certificate or declaration. If the Attorney General finds that the certificate or declaration is lost, mutilated, or destroyed, he shall issue to the applicant a new certificate or declaration. If the certificate or declaration has been mutilated, it shall be surrendered to the Attorney General before the applicant may receive such new certificate or declaration. If the certificate or declaration has been lost, the applicant or any other person who shall have, or may come into possession of it is hereby required to surrender it to the Attorney General.

(b) The Attorney General shall issue for any naturalized citizen, on such citizen's application therefor, a special certificate of naturalization for use by such citizen only for the purpose of obtaining recognition as a citizen of the United States by a foreign state. Such certificate when issued shall be furnished to the Secretary of State for transmission to the proper authority in such foreign state.

(c) If the name of any naturalized citizen has, subsequent to naturalization, been changed by order of any court of competent jurisdiction, or by marriage, the citizen may make application for a new certificate of naturalization in the new name of such citizen. If the Attorney General finds the name of the applicant to have been changed as claimed, the Attorney General shall issue to the applicant a new certificate and shall notify the naturalization court of such action.

(d) The Attorney General is authorized to make and issue certifications of any part of the naturalization records of any court, or of any certificate of naturalization or citizenship, for use in complying with any statute, State or Federal, or in any judicial proceeding. No such certification shall be made by any clerk of court except upon order of the court.

FISCAL PROVISIONS

SEC. 344. [8 U.S.C. 1455] (a) The clerk of court shall charge, collect, and account for fees prescribed by the Attorney General pursuant to section 9701 of title 31, United States Code for the following:

(1) Making, filing, and docketing a petition for naturalization, including the final hearing on such petition, if such hearing be held, and a certificate of naturalization, if the issuance of such certificate is authorized by the naturalization court.

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[180] Former subsection (a) was stricken by § 9(ee)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2621), and subsequent subsections were redesignated accordingly.

(2) Receiving and filing a declaration of intention, and issuing a duplicate thereof.

(b) Notwithstanding the provisions of this Act or any other law, no fee shall be charged or collected for an application for declaration of intention or a certificate of naturalization in lieu of a declaration or a certificate alleged to have been lost, mutilated, or destroyed, submitted by a person who was a member of the military or naval forces of the United States at any time after April 20, 1898, and before July 5, 1902; or at any time after April 5, 1917, and before November 12, 1918; or who served on the Mexican border as a member of the Regular Army or National Guard between June 1916 and April 1917; or who has served or hereafter serves in the military, air, or naval forces of the United States after September 16, 1940, and who was not at any time during such period or thereafter separated from such forces under other than honorable conditions, who was not a conscientious objector who performed no military duty whatever or refused to wear the uniform, or who was not at any time during such period or thereafter discharged from such military, air, or naval forces on account of alienage.

(c) The clerk of any naturalization court specified in subsection (a) of section 310 (except the courts specified in subsection (d) of this section) shall account for and pay over to the Attorney General one-half of all fees up to the sum of $40,000, and all fees in excess of $40,000, collected by any such clerk in naturalization proceedings in any fiscal year.[181]

(d) The clerk of any United States district court (except in the District Court of the Virgin Islands of the United States and in the District Court of Guam) shall account for and pay over to the Attorney General all fees collected by any such clerk in naturalization proceedings: *Provided, however,* That the clerk of the District Court of the Virgin Islands of the United States and of the District Court of Guam shall report but shall not be required to pay over to the Attorney General the fees collected by any such clerk in naturalization proceedings.

(e) The accounting required by subsections (c) and (d) of this section shall be made and the fees paid over to the Attorney General by such respective clerks in their quarterly accounts which they are hereby required to render to the Attorney General within thirty days from the close of each quarter of each and every fiscal year, in accordance with regulations prescribed by the Attorney General.

(f) The clerks of the various naturalization courts shall pay all additional clerical force that may be required in performing the duties imposed by this title upon clerks of courts from fees retained under the provisions of this section by such clerks in naturalization proceedings.

(g) All fees collected by the Attorney General, and all fees paid over to the Attorney General by clerks of courts under the provisions of this title, shall be deposited by the Attorney General in the

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[181] § 21 of P.L. 97-116 substituted "$40,000" for "$6,000", effective beginning with fiscal year 1981.

Treasury of the United States except [182] that all fees collected by the Attorney General, on or after October 1, 1988, under the provisions of this subchapter, shall be deposited in the "Immigration Examinations Fee Account" in the Treasury of the United States established pursuant to the provisions of sections 286 (m), (n), (o), and (p): *Provided, however,* That all fees received by the Attorney General or by the clerks of the courts from applicants residing in the Virgin Islands of the United States, and in Guam, under this title, shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam, respectively.

(h) During the time when the United States is at war no clerk of a United States court shall charge or collect a naturalization fee from an alien in the military, air, or naval service of the United States for filing a petition for naturalization or issuing a certificate of naturalization upon admission to citizenship, and no clerk of any State court shall charge or collect any fee for such services unless the laws of the State require such charge to be made, in which case nothing more than the portion of the fee required to be paid to the State shall be charged or collected. A report of all transactions under this subsection shall be made to the Attorney General as in the case of other reports required of clerks of courts by this title.

(i) In addition to the other fees required by this title, the petitioner for naturalization shall, upon the filing of a petition for naturalization, deposit with and pay to the clerk of court a sum of money sufficient to cover the expenses of subpenaing and paying the legal fees of any witnesses for whom such petitioner may request a subpena, and upon the final discharge of such witnesses, they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner.

[Sec. 345. Repealed.]

AUTHORIZATION GRANTED FOR PUBLICATION AND DISTRIBUTION OF CITIZENSHIP TEXTBOOKS FROM NATURALIZATION FEES

Sec. 346. [8 U.S.C. 1457] Authorization is hereby granted for the publication and distribution of the citizenship textbook described in subsection (b) of section 332 and for the reimbursement of the appropriation of the Department of Justice upon the records of the Treasury Department from the naturalization fees deposited in the Treasury through the Service for the cost of such publication and distribution, such reimbursement to be made upon statements by the Attorney General of books so published and distributed.

COMPILATION OF NATURALIZATION STATISTICS AND PAYMENT FOR EQUIPMENT

Sec. 347. [8 U.S.C. 1458] The Attorney General is authorized and directed to prepare from the records in the custody of the Service a report upon those heretofore seeking citizenship to show by nationalities their relation to the numbers of aliens annually arriving and to the prevailing census populations of the foreign-born, their economic, vocational, and other classification, in statistical form, with analytical comment thereon, and to prepare such report annually hereafter. Payment for the equipment used in preparing such compilation shall be made from the appropriation for the enforcement of this Act by the Service.

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[182] The exception was inserted in "[t]itle 8, United States Code, section 1455(g)" by § 209(b) of the Department of Justice Appropriations Act, 1989 (in Pub. L. 100–459, Oct. 1, 1988, 102 Stat. 2203). Reference to "this subchapter" should be reference to "this title", which corresponds to subchapter III of chapter 12 of title 8, U.S. Code.

ADMISSIBILITY IN EVIDENCE OF TESTIMONY AS TO STATEMENTS VOLUNTARILY MADE TO OFFICERS OR EMPLOYEES IN THE COURSE OF THEIR OFFICIAL DUTIES

SEC. 348. [8 U.S.C. 1459] (a) [183] In case any clerk of court shall refuse or neglect to comply with any of the provisions of section 339 (a), (b), or (c), such clerk of court shall forfeit and pay to the United States the sum of $25 in each and every case in which such violation or omission occurs and the amount of such forfeiture may be recovered by the United States in a civil action against such clerk.

(b) If a clerk of court shall fail to return to the Service or properly account for any certificate of naturalization furnished by the Service as provided in subsection (d) of section 339, such clerk of court shall be liable to the United States in the sum of $50, to be recovered in a civil action, for each and every such certificate not properly accounted for or returned.

CHAPTER 3—LOSS OF NATIONALITY

LOSS OF NATIONALITY BY NATIVE-BORN OR NATURALIZED CITIZEN

SEC. 349. [8 U.S.C. 1481] (a) [184] A person who is a national of the United States whether by birth or naturalization, shall lose his nationality by voluntarily performing any of the following acts with the intention of relinquishing United States nationality—

(1) obtaining naturalization in a foreign state upon his own application or upon an application filed by a duly authorized agent, after having attained the age of eighteen years; or

(2) taking an oath or making an affirmation or other formal declaration of allegiance to a foreign state or a political subdi-

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[183] Former subsection (a) was stricken by § 9(gg)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2622), and subsequent subsections redesignated accordingly. The former subsection read as follows: "It shall be lawful and admissible as evidence in any proceedings founded under this title, or any of the penal or criminal provisions of any law relating to immigration, naturalization, or citizenship, for any officer or employee of the United States to render testimony as to any statement voluntarily made to such officer or employee in the course of the performance of the official duties of such officer or employee by any defendant at the time or subsequent to the alleged commission of any crime or offense which may tend to show that such defendant did not have or could not have had knowledge of any matter concerning which such defendant is shown to have made affidavit, or oath, or to have been a witness pursuant to such law or laws.".

[184] § 18 of the Immigration and Nationality Act Amendments of 1986 (Pub. L. 99-653, Nov. 14, 1988, 100 Stat. 3658) made various amendments to this subsection, effective, under § 23(g) of such Act (as amended by § 8(r) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2619)), with respect to actions taken before, on, or after November 14, 1986.

vision thereof, after having attained the age of eighteen years; or

(3) entering, or serving in, the armed forces of a foreign state if (A) such armed forces are engaged in hostilities against the United States, or (B) such persons serve as a commissioned or non-commissioned officer; or

(4)(A) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years if he has or acquires the nationality of such foreign state; or (B) accepting, serving in, or performing the duties of any office, post, or employment under the government of a foreign state or a political subdivision thereof, after attaining the age of eighteen years for which office, post, or employment an oath, affirmation, or declaration of allegiance is required; or

(5) making a formal renunciation of nationality before a diplomatic or consular officer of the United States in a foreign state, in such form as may be prescribed by the Secretary of State; or

(6) making in the United States a formal written renunciation of nationality in such form as may be prescribed by, and before such officer as may be designated by, the Attorney General, whenever the United States shall be in a state of war and the Attorney General shall approve such renunciation as not contrary to the interests of national defense; or

(7) committing any act of treason against, or attempting by force to overthrow, or bearing arms against, the United States, violating or conspiring to violate any of the provisions of section 2383 of title 18, United States Code, or willfully performing any act in violation of section 2385 of title 18, United States Code, or violating section 2384 of said title by engaging in a conspiracy to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, if and when he is convicted thereof by a court martial or by a court of competent jurisdiction.

[Former subsection (b) was stricken by § 19(1) of Pub. L. 99-653 (Nov. 14, 1986, 100 Stat. 3658).]

(b) Whenever the loss of United States nationality is put in issue in any action or proceeding commenced on or after the enactment of this subsection under, or by virtue of, the provisions of this or any other Act, the burden shall be upon the person or party claiming that such loss occurred, to establish such claim by a preponderance of the evidence. Any person who commits or performs, or who has committed or performed, any act of expatriation under the provisions of this or any other Act shall be presumed to have done so voluntarily, but such presumption may be rebutted upon a showing, by a preponderance of the evidence, that the act or acts committed or performed were not done voluntarily.

[SEC. 350. Repealed.]

RESTRICTIONS ON EXPATRIATION [185]

SEC. 351. [8 U.S.C. 1483] (a) Except as provided in paragraphs (6), and (7) of section 349(a) of this title, no national of the United States can expatriate himself, or be expatriated, under this Act while within the United States or any of its outlying possessions, but expatriation shall result from the performance within the United States or any of its outlying possessions of any of the acts or the fulfillment of any of the conditions specified in this chapter if and when the national thereafter takes up a residence outside the United States and its outlying possessions.

(b) A national who within six months after attaining the age of eighteen years asserts his claim to United States nationality, in such manner as the Secretary of State shall by regulation prescribe, shall not be deemed to have expatriated himself by the commission, prior to his eighteenth birthday, of any of the acts specified in paragraphs (3) and (5) of section 349(a) of this title.

[Sections 352 to 355. Repealed.]

NATIONALITY LOST SOLELY FROM PERFORMANCE OF ACTS OR FULFILLMENT OF CONDITIONS

SEC. 356. [8 U.S.C. 1488] The loss of nationality under this chapter shall result solely from the performance by a national of the acts or fulfillment of the conditions specified in this chapter.

APPLICATION OF TREATIES; EXCEPTIONS

SEC. 357. [8 U.S.C. 1489] Nothing in this title shall be applied in contravention of the provisions of any treaty or convention to which the United States is a party and which has been ratified by the Senate before December 25, 1952: *Provided, however,* That no woman who was a national of the United States shall be deemed to have lost her nationality solely by reason of her marriage to an alien on or after September 22, 1922, or to an alien racially ineligible to citizenship on or after March 3, 1931, or, in the case of a woman who was a United States citizen at birth, through residence abroad following such marriage, notwithstanding the provisions of any existing treaty or convention.

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[185] Section 1999 of the Revised Statutes of the United States (8 U.S.C. 1481 note) provides as follows: "Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas in the recognition of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.".

CHAPTER 4—MISCELLANEOUS

CERTIFICATE OF DIPLOMATIC OR CONSULAR OFFICER OF THE UNITED STATES AS TO LOSS OF AMERICAN NATIONALITY UNDER CHAPTER IV, NATIONALITY ACT OF 1940, OR UNDER CHAPTER 3 OF THIS TITLE

SEC. 358. [8 U.S.C. 1501] Whenever a diplomatic or consular officer of the United States has reason to believe that a person while in a foreign state has lost his United States nationality under any provision of chapter 3 of this title, or under any provision of chapter IV of the Nationality Act of 1940, as amended, he shall certify the facts upon which such belief is based to the Department of State, in writing, under regulations prescribed by the Secretary of State. If the report of the diplomatic or consular officer is approved by the Secretary of State, a copy of the certificate shall be forwarded to the Attorney General, for his information, and the diplomatic or consular office in which the report was made shall be directed to forward a copy of the certificate to the person to whom it relates.

CERTIFICATE OF NATIONALITY TO BE ISSUED BY THE SECRETARY OF STATE FOR A PERSON NOT A NATURALIZED CITIZEN OF THE UNITED STATES FOR USE IN PROCEEDINGS OF A FOREIGN STATE

SEC. 359. [8 U.S.C. 1502] The Secretary of State is hereby authorized to issue, in his discretion and in accordance with rules and regulations prescribed by him, a certificate of nationality for any person not a naturalized citizen of the United States who presents satisfactory evidence that he is an American national and that such certificate is needed for use in judicial or administrative proceedings in a foreign state. Such certificate shall be solely for use in the case for which it was issued and shall be transmitted by the Secretary of State through appropriate official channels to the judicial or administrative officers of the foreign state in which it is to be used.

PROCEEDINGS FOR DECLARATION OF UNITED STATES NATIONALITY IN THE EVENT OF DENIAL OF RIGHTS AND PRIVILEGES AS NATIONAL

SEC. 360. [8 U.S.C. 1503] (a) If any person who is within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may institute an action under the provisions of section 2201 of title 28, United States Code, against the head of such department or independent agency for a judgment declaring him to be a national of the United States, except that no such action may be instituted in any case if the issue of such person's status as a national of the United States (1) arose by reason of or in connection with any exclusion proceeding under the provisions of this or any other act, or (2) is in issue in any such exclusion proceeding. An action under this subsection may be instituted only within five years after the final administrative denial of such right or privilege and shall be filed in the district court of the United States for the district in which such person resides or claims a residence, and jurisdiction over such officials in such cases is hereby conferred upon those courts.

(b) If any person who is not within the United States claims a right or privilege as a national of the United States and is denied such right or privilege by any department or independent agency, or official thereof, upon the ground that he is not a national of the United States, such person may make application to a diplomatic or consular officer of the United States in the foreign country in which he is residing for a certificate of identity for the purpose of traveling to a port of entry in the United States and applying for admission. Upon proof to the satisfaction of such diplomatic or consular officer that such application is made in good faith and has a substantial basis, he shall issue to such person a certificate of identity. From any denial of an application for such certificate the applicant shall be entitled to an appeal to the Secretary of State, who, if he approves the denial, shall state in writing his reasons for his decision. The Secretary of State shall prescribe rules and regulations for the issuance of certificates of identity as above provided. The provisions of this subsection shall be applicable only to a person who at some time prior to his application for the certificate of identity has been physically present in the United States, or to a person under sixteen years of age who was born abroad of a United States citizen parent.

(c) A person who has been issued a certificate of identity under the provisions of subsection (b), and while in possession thereof, may apply for admission to the United States at any port of entry, and shall be subject to all the provisions of this Act relating to the conduct of proceedings involving aliens seeking admission to the United States. A final determination by the Attorney General that any such person is not entitled to admission to the United States shall be subject to review by any court of competent jurisdiction in habeas corpus proceedings and not otherwise. Any person described in this section who is finally excluded from admission to the United States shall be subject to all the provisions of this Act relating to aliens seeking admission to the United States.

TITLE IV—MISCELLANEOUS AND REFUGEE ASSISTANCE

CHAPTER 1—MISCELLANEOUS

[JOINT CONGRESSIONAL COMMITTEE]

[SEC. 401. Repealed.]

AMENDMENTS TO OTHER LAWS

SEC. 402. [omitted as executed]

LAWS REPEALED

SEC. 403. [omitted as executed]

AUTHORIZATION OF APPROPRIATIONS [186]

SEC. 404. [8 U.S.C. 1101, note] (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act (other than chapter 2 of title IV).

(b) [187] There are authorized to be appropriated to an immigration emergency fund, to be established in the Treasury, $35,000,000, to be used to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of State and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists and has certified such fact to the Judiciary Committees of the House of Representatives and of the Senate.

SAVINGS CLAUSES

SEC. 405. [8 U.S.C. 1101, note] (a) Nothing contained in this Act, unless otherwise specifically provided therein, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certificate of citizenship, warrant of arrest, order or warrant of deportation, order of exclusion, or other document or proceeding which shall be valid at the time this Act shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, at the time this

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[186] § 204 of Pub. L. 94-503 (90 Stat. 2427) provides as follows:

AUTHORIZING JURISDICTION

SEC. 204. No sums shall be deemed to be authorized to be appropriated for any fiscal year beginning on or after October 1, 1978, for the Department of Justice (including any bureau, agency, or other similar subdivision thereof) except as specifically authorized by Act of Congress with respect to such fiscal year. Neither the creation of a subdivision in the Department of Justice, nor the authorization of an activity of the Department, any subdivision, or officer thereof, shall be deemed in itself to be an authorization of appropriations for the Department of Justice, such subdivision, or activity, with respect to any fiscal year beginning on or after October 1, 1978.

[187] Subsection (b) was added by § 113 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, Nov. 6, 1986, 100 Stat. 3383).

Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided therein, hereby continued in force and effect. When an immigrant, in possession of an unexpired immigrant visa issued prior to the effective date of this Act, makes application for admission, his admissibility shall be determined under the provisions of law in effect on the date of the issuance of such visa. An application for suspension of deportation under section 19 of the Immigration Act of 1917, as amended, or for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended, which is pending on the date of enactment of this Act, shall be regarded as a proceeding within the meaning of this subsection.

(b) Except as otherwise specifically provided in title III, any petition for naturalization heretofore filed which may be pending at the time this Act shall take effect shall be heard and determined in accordance with the requirements of law in effect when such petition was filed.

(c) Except as otherwise specifically provided in this Act, the repeal of any statute by this Act shall not terminate nationality heretofore lawfully acquired nor restore nationality heretofore lost under any law of the United States or any treaty to which the United States may have been a party.

(d) Except as otherwise specifically provided in this Act, or any amendment thereto, fees, charges and prices for purposes specified in title V of the Independent Offices Appropriation Act, 1952 (Public Law 137, Eighty-second Congress, approved August 31, 1951), may be fixed and established in the manner and by the head of any Federal Agency as specified in that Act.

(e) This Act shall not be construed to repeal, alter, or amend section 231(a) of the Act of April 30, 1946 (60 Stat. 148; 22 U.S.C. 1281(a)), the Act of June 20, 1949 (Public Law 110, section 8, Eighty-first Congress, first session; 63 Stat. 208), the Act of June 5, 1950 (Public Law 535, Eighty-first Congress, second session), nor title V of the Agricultural Act of 1949, as amended (Public Law 78, Eighty-second Congress, first session).

SEPARABILITY

SEC. 406. [8 U.S.C. 1101, note] If any particular provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 407. [8 U.S.C. 1101, note] Except as provided in subsection (k) of section 401, this Act shall take effect at 12:01 ante meridian United States Eastern Standard Time on the one hundred eightieth day [188] immediately following the date of its enactment.

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[188] The Act took effect on December 24, 1952.

CHAPTER 2—REFUGEE ASSISTANCE

OFFICE OF REFUGEE RESETTLEMENT

SEC. 411. [8 U.S.C. 1521] (a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this chapter referred to as the "Office"). The head of the Office shall be a Director (hereinafter in this chapter referred to as the "Director"), to be appointed by the Secretary of Health and Human Services (hereinafter in this chapter referred to as the "Secretary").

(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this chapter referred to as the "Coordinator"), programs of the Federal Government under this chapter.

AUTHORIZATION FOR PROGRAMS FOR DOMESTIC RESETTLEMENT OF AND ASSISTANCE TO REFUGEES

SEC. 412. [8 U.S.C. 1522] (a) CONDITIONS AND CONSIDERATIONS.—(1)(A) In providing assistance under this section, the Director shall, to the extent of available appropriations, (i) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (ii) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (iii) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e)(2), and (iv) insure that women have the same opportunities as men to participate in training and instruction.

(B) It is the intent of Congress that in providing refugee assistance under this section—

(i) employable refugees should be placed on jobs as soon as possible after their arrival in the United States;

(ii) social service funds should be focused on employment-related services, English-as-a-second-language training (in nonwork hours where possible), and case-management services; and

(iii) local voluntary agency activities should be conducted in close cooperation and advance consultation with State and local governments.

(2)(A) The Director and the Federal agency administering subsection (b)(1), together with the Coordinator, shall consult regularly (not less often than quarterly) with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities before their placement in those States and localities.

(B) The Director shall develop and implement, in consultation with representatives of voluntary agencies and State and local governments, policies and strategies for the placement and resettlement of refugees within the United States.

(C) Such policies and strategies, to the extent practicable and except under such unusual circumstances as the Director may recognize, shall—

(i) insure that a refugee is not initially placed or resettled in an area highly impacted (as determined under regulations prescribed by the Director after consultation with such agencies and governments) by the presence of refugees or comparable populations unless the refugee has a spouse, parent, sibling, son, or daughter residing in that area,

(ii) provide for a mechanism whereby representatives of local affiliates of voluntary agencies regularly (not less often than quarterly) meet with representatives of State and local governments to plan and coordinate in advance of their arrival the appropriate placement of refugees among the various States and localities, and

(iii) take into account—

(I) the proportion of refugees and comparable entrants in the population in the area,

(II) the availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services) for refugees in the area,

(III) the likelihood of refugees placed in the area becoming self-sufficient and free from long-term dependence on public assistance, and

(IV) the secondary migration of refugees to and from the area that is likely to occur.

(D) With respect to the location of placement of refugees within a State, the Federal agency administering subsection (b)(1) shall, consistent with such policies and strategies and to the maximum extent possible, take into account recommendations of the State.

(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this chapter and the resources available to meet such needs. The Director shall compile and maintain data on secondary migration of refugees within the United States and, by State of residence and nationality, on the proportion of refugees receiving cash or medical assistance described in subsection (e). In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

(4)(A) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the appropriate administering official. Grants and contracts under this section shall be made to those agencies which the appropriate administering official determines can best perform the services. Payments may be made for activities authorized under this chapter in advance or by way of reimbursement. In carrying out this section, the

Director, the Secretary of State, and such other appropriate administering official are authorized—

(i) to make loans, and

(ii) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for the purpose of carrying out this section.

(B) No funds may be made available under this chapter (other than under subsection (b)(1)) to States or political subdivisions in the form of block grants, per capita grants, or similar consolidated grants or contracts. Such funds shall be made available under separate grants or contracts—

(i) for medical screening and initial medical treatment under subsection (b)(5),

(ii) for services for refugees under subsection (c)(1),

(iii) for targeted assistance project grants under subsection (c)(2), and

(iv) for assistance for refugee children under subsection (d)(2).

(C) The Director may not delegate to a State or political subdivision his authority to review or approve grants or contracts under this chapter or the terms under which such grants or contracts are made.

(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

(6) As a condition for receiving assistance under this section, a State must—

(A) submit to the Director a plan which provides—

(i) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

(ii) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

(iii) for the designation of an individual, employed by the State, who will be responsible for insuring coordination of public and private resources in refugee resettlement,

(iv) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

(v) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

(B) meet standards, goals, and priorities, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services; and

(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this chapter which the State is responsible for administering.

(7) The Secretary, together with the Secretary of State with respect to assistance provided by the Secretary of State under subsec-

tion (b), shall develop a system of monitoring the assistance provided under this section. This system shall include—

(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

(C) data collection on the services provided and the results achieved.

(8) The Attorney General shall provide the Director with information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

(9) The Secretary, the Secretary of Education, the Attorney General, and the Secretary of State may issue such regulations as each deems appropriate to carry out this chapter.

(10) For purposes of this chapter, the term "refugee" includes any alien described in section 207(c)(2).

(b) PROGRAM OF INITIAL RESETTLEMENT. —(1)(A) For—

(i) fiscal years 1980 and 1981, the Secretary of State is authorized, and

(ii) fiscal year 1982 and succeeding fiscal years, the Director (except as provided in subparagraph (B)) is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. Grants to, or contracts with, private nonprofit voluntary agencies under this paragraph shall be made consistent with the objectives of this chapter, taking into account the different resettlement approaches and practices of such agencies. Resettlement assistance under this paragraph shall be provided in coordination with the Director's provision of other assistance under this chapter. Funds provided to agencies under such grants and contracts may only be obligated or expended during the fiscal year in which they are provided (or the subsequent fiscal year or such subsequent fiscal period as the Federal contracting agency may approve) to carry out the purposes of this subsection.

(B) If the President determines that the Director should not administer the program under this paragraph, the authority of the Director under the first sentence of subparagraph (A) shall be exercised by such officer as the President shall from time to time specify.[189]

(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secre-

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[189] The President has specified the Secretary of State. See letter of Jan. 13, 1981, from Pres. Carter to the Speaker of the House and President of the Senate, 17 Weekly Compil. of Pres. Docs., p. 2880.

tary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

(3) The Secretary is authorized, in consultation with the Coordinator, to make arrangements (including cooperative arrangements with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary, without regard to such provisions of law (other than the Renegotiation Act of 1951 and section 414(b) of this chapter) regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the Secretary may specify.

(4) The Secretary, in consultation with the Coordinator, shall—

(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

(B) provide for the identification of refugees who have been determined to have medical conditions affecting the public health and requiring treatment;

(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records; and

(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Secretary shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

(5) The Director is authorized to make grants to, and enter into contracts with, State and local health agencies for payments to meet their costs of providing medical screening and initial medical treatment to refugees.

(6) The Comptroller General shall directly conduct an annual financial audit of funds expended under each grant or contract made under paragraph (1) for fiscal year 1986 and for fiscal year 1987.

(7) Each grant or contract with an agency under paragraph (1) shall require the agency to do the following:

(A) [190] To provide quarterly performance and financial status reports to the Federal agency administering paragraph (1).

(B)(i) To provide, directly or through its local affiliate, notice to the appropriate county or other local welfare office at the time that the agency becomes aware that a refugee is offered employment and to provide notice to the refugee that such notice has been provided, and

(ii) [190] upon request of such a welfare office to which a refugee has applied for cash assistance, to furnish that office with documentation respecting any cash or other resources provided directly by the agency to the refugee under this subsection.

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[190] Subparagraphs (A), (B)(ii), and (E) apply to grants and contracts made or renewed after December 5, 1986, under § 5(d)(1) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605, 100 Stat. 3452).

(C) To assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area.

(D)[191] To fulfill its responsibility to provide for the basic needs (including food, clothing, shelter, and transportation for job interviews and training) of each refugee resettled and to develop and implement a resettlement plan including the early employment of each refugee resettled and to monitor the implementation of such plan.

(E)[190] To transmit to the Federal agency administering paragraph (1) an annual report describing the following:

(i) The number of refugees placed (by county of placement) and the expenditures made in the year under the grant or contract, including the proportion of such expenditures used for administrative purposes and for provision of services.

(ii) The proportion of refugees placed by the agency in the previous year who are receiving cash or medical assistance described in subsection (e).

(iii) The efforts made by the agency to monitor placement of the refugees and the activities of local affiliates of the agency.

(iv) The extent to which the agency has coordinated its activities with local social service providers in a manner which avoids duplication of activities and has provided notices to local welfare offices and the reporting of medical conditions of certain aliens to local health departments in accordance with subparagraphs (B)(i) and (C).

(v) Such other information as the agency administering paragraph (1) deems to be appropriate in monitoring the effectiveness of agencies in carrying out their functions under such grants and contracts.

The agency administering paragraph (1) shall promptly forward a copy of each annual report transmitted under subparagraph (E) to the Committees on the Judiciary of the House of Representatives and of the Senate,

(8) The Federal agency administering paragraph (1) shall establish criteria[192] for the performance of agencies under grants and contracts under that paragraph, and shall include criteria relating to an agency's—

(A) efforts to reduce welfare dependency among refugees resettled by that agency,

(B) collection of travel loans made to refugees resettled by that agency for travel to the United States,

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[191] Subparagraph (D) applies to grants and contracts made or renewed after May 5, 1987, under § 5(d)(2) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605, 100 Stat. 3452).

[192] These criteria are required to be established by January 5, 1987, under § 5(d)(3) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99-605, 100 Stat. 3452).

(C) arranging for effective local sponsorship and other nonpublic assistance for refugees resettled by that agency,

(D) cooperation with refugee mutual assistance associations, local social service providers, health agencies, and welfare offices,

(E) compliance with the guidelines established by the Director for the placement and resettlement of refugees within the United States, and

(F) compliance with other requirements contained in the grant or contract, including the reporting and other requirements under subsection (b)(7).

The Federal administering agency shall use the criteria in the process of awarding or renewing grants and contracts under paragraph (1).

(c) PROJECT GRANTS AND CONTRACTS FOR SERVICES FOR REFUGEES.—(1)(A) The Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—

(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

(ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

(iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.

(B)[193] The funds available for a fiscal year for grants and contracts under subparagraph (A) shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.

(C) Any limitation which the Director establishes on the proportion of funds allocated to a State under this paragraph that the State may use for services other than those described in subsection (a)(1)(B)(ii) shall not apply if the Director receives a plan (established by or in consultation with local governments) and determines that the plan provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 106 of the Job Training Partnership Act.

(2)(A) The Director is authorized to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

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[193] This subparagraph applies to allocations of funds for fiscal years beginning with fiscal year 1987 under § 6(c) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605, 100 Stat. 3453).

(B) Grants shall be made available under this paragraph—

(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency,

(ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.

(d) ASSISTANCE FOR REFUGEE CHILDREN.—(1) The Secretary of Education is authorized to make grants, and enter into contracts, for payments for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with, public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to any refugee child (except as provided in subparagraph (B)) during the thirty-six month period beginning with the first month in which such refugee child is in the United States.

(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act prescribes for the availability of such services to any other child in that State).

(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to enter into contracts with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

(e)[194] CASH ASSISTANCE AND MEDICAL ASSISTANCE TO REFUGEES.—(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for 100 per centum of the cash assistance and medical assistance provided to any refugee during the thirty-six month period beginning with the first month in which such refugee has entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

(2)(A) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

(i) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1)(A)(i), or, if there is no such agency available, with an appropriate State or local employment service;

(ii) on the refugee's participation in any available and appropriate social service or targeted assistance program (funded under subsection (c)) providing job or language training in the area in which the refugee resides; and

(iii) on the refugee's acceptance of appropriate offers of employment.[195]

(B) Cash assistance shall not be made available to refugees who are full-time students in institutions of higher education (as defined by the Director after consultation with the Secretary of Education).

(C)[196] In the case of a refugee who—

(i) refuses an offer of employment which has been determined to be appropriate either by the agency responsible for the initial resettlement of the refugee under subsection (b) or by the appropriate State or local employment service,

(ii) refuses to go to a job interview which has been arranged through such agency or service, or

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[194] Section 313(c) of the Refugee Act of 1980 (Pub. L. 96–212, Mar. 17, 1980, 94 Stat. 117) provides as follows:

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized—

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,
(B) in fiscal year 1981, for 60 percent,
(C) in fiscal year 1982, for 45 percent, and
(D) in fiscal year 1983, for 25 percent,

if the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act.

[195] For aliens who enter the United States as refugees before Apr. 1, 1987, the following sentence (which was stricken by § 9(a)(1) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605, Nov. 6, 1986, 100 Stat. 3454)) applies:

Such cash assistance provided to such a refugee shall be terminated (after opportunity for an administrative hearing) with the month in which the refugee refuses such an appropriate offer of employment or refuses to participate in such an available and appropriate social service program.

[196] This subparagraph applies to aliens who enter the United States as refugees on or after Apr. 1, 1987, under § 9(c) of the Refugee Assistance Extension Act of 1986 (Pub. L. 99–605, 100 Stat. 3454).

(iii) refuses to participate in a social service or targeted assistance program referred to in subparagraph (A)(ii) which such agency or service determines to be available and appropriate,

cash assistance to the refugee shall be terminated (after opportunity for an administrative hearing) for a period of three months (for the first such refusal) or for a period of six months (for any subsequent refusal).

(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act, or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act, funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act on account of any resources or income requirement of such plan, but only if the Director determines that—

(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments; and

(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

(6) As a condition for receiving assistance, reimbursement, or a contract under this subsection and notwithstanding any other provision of law, a State or agency must provide assurances that whenever a refugee applies for cash or medical assistance for which assistance or reimbursement is provided under this subsection, the State or agency must notify promptly the agency (or local affiliate) which provided for the initial resettlement of the refugee under subsection (b) of the fact that the refugee has so applied.

(7)(A) [197] The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers. The Secretary may permit alternative projects to cover specific groups of refugees who have been in the United States 36 months or longer if the Secretary determines that refugees in the group have been significantly and disproportionately dependent on welfare and need the services provided under the project in order to become self-sufficient and that their coverage under the projects would be cost-effective.

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[197] Paragraph (7) was added by P.L. 98–473 (98 Stat. 1877).

(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act.

(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 414(a) of this Act, part A of title IV of the Social Security Act, or title XIX of such Act, may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

(8) In its provision of assistance to refugees, a State or political subdivision shall consider the recommendations of, and assistance provided by, agencies with grants or contracts under subsection (b)(1).

(f) ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.—(1) The Attorney General shall pay compensation to States and to counties for costs incurred by the States and counties to confine in prisons, during the fiscal year for which such payment is made, nationals of Cuba who—

(A) were paroled into the United States in 1980 by the Attorney General,

(B) after such parole committed any violation of State or county law for which a term of imprisonment was imposed, and

(C) at the time of such parole and such violation were not aliens lawfully admitted to the United States—

(i) for permanent residence, or

(ii) under the terms of an immigrant or a nonimmigrant visa issued,

under this Act.

(2) For a State or county to be eligible to receive compensation under this subsection, the chief executive officer of the State or county shall submit to the Attorney General, in accordance with rules to be issued by the Attorney General, an application containing—

(A) the number and names of the Cuban nationals with respect to whom the State or county is entitled to such compensation, and

(B) such other information as the Attorney General may require.

(3) For a fiscal year the Attorney General shall pay the costs described in paragraph (1) to each State and county determined by the Attorney General to be eligible under paragraph (2); except that if the amounts appropriated for the fiscal year to carry out this subsection are insufficient to cover all such payments, each of such payments shall be ratably reduced so that the total of such payments equals the amounts so appropriated.

(4) The authority of the Attorney General to pay compensation under this subsection shall be effective for any fiscal year only to the extent and in such amounts as may be provided in advance in appropriation Acts.

(5) [198] It shall be the policy of the United States Government that the President, in consultation with the Attorney General and all other appropriate Federal officials and all appropriate State and county officials referred to in paragraph (2), shall place top priority on seeking the expeditious removal from this country and the return to Cuba of Cuban nationals described in paragraph (1) by any reasonable and responsible means, and to this end the Attorney General may use the funds authorized to carry out this subsection to conduct such policy.

CONGRESSIONAL REPORTS

SEC. 413. [8 U.S.C. 1523] (a) The Secretary, in consultation with the Coordinator, shall submit a report on activities under this chapter to the Committees on the Judiciary of the House of Representatives and of the Senate not later than the January 31 following the end of each fiscal year, beginning with fiscal year 1980.

(b) [199] Each such report shall contain—

(1) an updated profile of the employment and labor force statistics for refugees who have entered the United States within the five-fiscal-year period immediately preceding the fiscal year within which the report is to be made and for refugees who entered earlier and who have shown themselves to be sig-

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[198] Corrections were made to this paragraph by § 6(b) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2616).

[199] Former subsections (b) through (d) were repealed by § 9(jj)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2622). These subsections formerly read as follows:

(b) The Secretary, in consultation with the Coordinator, shall conduct and report to Congress, not later than one year after the date of the enactment of this chapter, an analysis of—

(1) resettlement systems used by other countries and the applicability of such systems to the United States;

(2) the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees; and

(3) alternative resettlement strategies.

(c)(1) The Director shall study the feasibility and advisability of providing—

(A) for interim support (to refugees who are not employment-ready upon arrival in the United States) for a period determined on a case-by-case basis through a mechanism (other than public assistance) that recognizes the primary role of case management through voluntary agencies at the local level, and

(B) a mechanism (other than one associated with the provision of cash assistance) through which refugees, requiring medical (but not cash) assistance, are provided medical assistance,

and shall report to Congress on the study not later than January 1, 1983.

(2) The Director shall study and report to the Congress, not later than September 30, 1983, on the feasibility and advisability of providing for the establishment of special refugee centers in various locations at which refugees would receive orientation, training, and education in English and in the legal governmental, monetary and economic systems, history, culture, and geography of the United States before resettlement in the United States.

(d) The Director shall study, and report to Congress not later than January 1, 1983, on the feasibility and advisability of establishing a program providing payments to States, counties, cities, and other units of local government to reflect a net increase in outlays on educational, health, criminal justice, and other governmental services resulting directly from the initial resettlement of refugees in, or secondary migration of refugees to, that State, county, city, or other unit. Such study shall include an examination of the extent to which the programs and assistance described in section 412 (particularly under subsection (c) thereof) provide for such payments to impacted areas and the extent to which increased outlays in these impacted areas are offset by the provision of additional Federal funds under other programs or authority or by increased taxes, revenues, or other economic activity resulting from refugee resettlement in, or migration, to these areas.

nificantly and disproportionately dependent on welfare as well as a description of the extent to which refugees received the forms of assistance or services under this chapter during that period;

(2) a description of the geographic location of refugees;

(3) a summary of the results of the monitoring and evaluation conducted under section 412(a)(7) during the period for which the report is submitted;

(4) a description of (A) the activities, expenditures, and policies of the Office under this chapter and of the activities of States, voluntary agencies, and sponsors, and (B) the Director's plans for improvement of refugee resettlement;

(5) evaluations of the extent to which (A) the services provided under this chapter are assisting refugees in achieving economic self-sufficiency, achieving ability in English, and achieving employment commensurate with their skills and abilities, and (B) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

(6) a description of any assistance provided by the Director pursuant to section 412(e)(5);

(7) a summary of the location and status of unaccompanied refugee children admitted to the United States; and

(8) a summary of the information compiled and evaluation made under section 412(a)(8).

AUTHORIZATION OF APPROPRIATIONS

SEC. 414. [8 U.S.C. 1524] (a)(1) There are hereby authorized to be appropriated for each of fiscal years 1987 and 1988 such sums as may be necessary for the purpose of carrying out the provisions (other than those described in paragraphs (2) through (4)) of this chapter.

(2) There are hereby authorized to be appropriated for fiscal year 1987 $74,783,000 and for fiscal year 1988 $77,924,000 for the purpose of providing services with respect to refugees under section 412(c)(1).

(3) There are hereby authorized to be appropriated for fiscal year 1987 $8,761,000 and for fiscal year 1988 $9,125,000 for the purpose of carrying out section 412(b)(5).

(4) There are authorized to be appropriated for fiscal year 1987, $5,215,000 and for fiscal year 1988 $5,434,000 for the purpose of carrying out the provisions of section 412(f).

(b) The authority to enter into contracts under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

[The following provision, enacted as part of the Refugee Act of 1980, relating to the United States Coordinator for Refugee Affairs, and printed in 8 point type, is included at this point in title 8, United States Code, but is *not* part of the Immigration and Nationality Act:]

SEC. 301. [8 U.S.C. 1525] (a) The President shall appoint, by and with the advice and consent of the Senate, a United States Coordinator for Refugee Affairs (hereinafter in this part referred to as the "Coordinator"). The Coordinator shall have the rank of Ambassador-at-Large.

(b) The Coordinator shall be responsible to the President for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationship of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) under the direction of the Secretary of State, representation and negotiation on behalf of the United States with foreign governments and international organizations in discussions on refugee matters and, when appropriate, submitting refugee issues for inclusion in other international negotiations;

(7) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

(8) making recommendations to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(9) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

(c)(1) In the conduct of the Coordinator's duties, the Coordinator shall consult regularly with States, localities, and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees.

(2) The Secretary of Labor and the Secretary of Education shall provide the Coordinator with regular reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction, and the Coordinator shall include information on each programs in reports submitted under section 413(a)(1) of the Immigration and Nationality Act.

[The following provisions, relating to the organization of the Immigration and Naturalization Service and printed in 8 point type, are included at this point as chapter 13 of title 8, United States Code, but are *not* part of the Immigration and Nationality Act:]

§ 1551. Immigration and Naturalization Service

There is created and established in the Department of Justice an Immigration and Naturalization Service.

(Feb. 14, 1903, ch. 552, § 4, 32 Stat. 826; as amended.)

§ 1552. Commissioner of Immigration and Naturalization; office

The office of the Commissioner of Immigration and Naturalization is created and established, and the President, by and with the advice and consent of the Senate, is authorized and directed to appoint such officer. The Attorney General shall provide him with a suitable, furnished office in the city of Washington, and with such books of record and facilities for the discharge of the duties of his office as may be necessary.

(Mar. 3. 1891, ch. 551, § 7, 26 Stat. 1085; as amended.)

[NOTE.—Section 103(b) of INA describes functions of Commissioner.]

§ 1553. Assistant Commissioners and one District Director; compensation and salary grade

The compensation of the five assistant commissioners and one district director shall be at the rate of grade GS-16.

(June 20, 1956, ch. 414, title II, § 201, 70 Stat. 307.)

§ 1554. Special Immigrant Inspectors at Washington

Special immigrant inspectors, not to exceed three, may be detailed for duty in the service at Washington.

(Mar. 2, 1895, ch. 177, § 1, 28 Stat. 780; Ex. Ord. No. 6166, § 14, June 10, 1933.)

§ 1555. Immigration Service expenses

Appropriations now or hereafter provided for the Immigration and Naturalization Service shall be available for payment of (a) hire of privately owned horses for use on official business, under contract with officers or employees of the Service; (b) pay of interpreters and translators who are not citizens of the United States; (c) distribution of citizenship textbooks to aliens without cost to such aliens; (d) payment of allowances (at such rate as may be specified from time to time in the appropriation Act involved) to aliens, while held in custody under the immigration laws, for work performed; and (e) when so specified in the appropriation concerned, expenses of unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, who shall make a certificate of the amount of any such expenditure as he may think it advisable not to specify, and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended.

(July 28, 1950, ch. 503, § 6, 64 Stat. 380.)

§ 1557. Prevention of transportation in foreign commerce of alien women and girls under international agreement; Commissioner designated as authority to receive and preserve information

For the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the whiteslave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States dated June 15, 1908, the Commissioner of Immigration and Naturalization is designated as the authority of the United States to receive and centralize information concerning the procuration of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declarations, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner of Immigration and Naturalization to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in this Act to the persons, respectively, making and filing them.

(June 25, 1910, ch. 395, § 6, 36 Stat. 826; Ex. Ord. No. 6166, § 14, June 10, 1933.)

APPENDIXES

[NOTE.—Unless otherwise noted, all material in the Appendixes reflects the provisions in effect as of January 1, 1989.]

I. SELECTED PROVISIONS OF TITLE 18, U.S. CODE

[NOTE.—Crimes are now classified under § 3559(a) of title 18, United States Code. Under § 3559(b) of such title, the maximum fine is the *greater* of the fine level specified under the provision of law creating the crime or the fine level specified under general fine provisions of title 18. Generally, under § 3571 of such title, the maximum fine level for felonies and misdemeanors resulting in death is $250,000 for individuals and $500,000 for organizations, for class A misdemeanors is $100,000 for individuals and $200,000 for organizations, and for class B or C misdemeanors is $5,000 for individuals and $10,000 for organizations. Subsection (e) of such section provides (with emphases added) that "[i]f a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section *and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section,* the defendant may not be fined more than the amount specified in the law setting forth the offense". Thus, these higher levels generally supersede the levels specified in the provisions below.]

* * * * * * *

§ 242. Deprivation of rights under color of law

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both; and if death results shall be subject to imprisonment for any term of years or for life.

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§ 911. Citizen of the United States

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than $1,000 or imprisoned not more than three years, or both.

* * * * * * *

§ 922. Unlawful Acts

* * * * * * *

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person—

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship.

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

* * * * * * *

(g) It shall be unlawful for any person—

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions; or

(7) who, having been a citizen of the United States, has renounced his citizenship;

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

* * * * * * *

[NOTE.—Section shown as amended by § 102 of Pub. L. 99-308, May 19, 1986, 100 Stat. 451.]

§ 1015. Naturalization, citizenship or alien registry

(a) Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; or

(b) Whoever knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted; or

(c) Whoever uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained; or

(d) Whoever knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

* * * * * * *

CHAPTER 69—NATIONALITY AND CITIZENSHIP

Sec.
1421. Accounts of court officers.
1422. Fees in naturalization proceedings.
1423. Misuse of evidence of citizenship or naturalization.
1424. Personation or misuse of papers in naturalization proceedings.
1425. Procurement of citizenship or naturalization unlawfully.
1426. Reproduction of naturalization or citizenship papers.
1427. Sale of naturalization or citizenship papers.
1428. Surrender of canceled naturalization certiticate.
1429. Penalities for neglect or refusal to answer subpena.

§ 1421. Accounts of court officers

Whoever, being a clerk or assistant clerk of a court, or other person charged by law with a duty to render true accounts of moneys received in any proceeding relating to citizenship, naturalization, or registration of aliens or to pay over any balance of such moneys due to the United States, willfully neglects to do so within thirty days after said payment shall become due and demand therefor has been made, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1422. Fees in naturalization proceedings

Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect, or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1423. Misuse of evidence of citizenship or naturalization

Whoever knowingly uses for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplication, unlawfully issued or made, or copies or duplicates thereof, showing any person to be naturalized or admitted to be a citizen, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1424. Personation or misuse of papers in naturalization proceedings

Whoever, whether as applicant, declarant, petitioner, witness or otherwise, in any naturalization or citizenship proceeding, knowingly personates another or appears falsely in the name of a deceased person or in an assumed or fictitious name; or

Whoever knowingly and unlawfully uses or attempts to use, as showing naturalization or citizenship of any person, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, or copies or duplicates thereof, issued to another person, or in a fictitious name or in the name of a deceased person—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1425. Procurement of citizenship or naturalization unlawfully

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of nationalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1426. Reproduction of naturalization or citizenship papers

(a) Whoever falsely makes, forges, alters, or counterfeits any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate or documentary evidence of naturalization or citizenship or any other, record, signature, paper or proceeding or any copy thereof, required or authorized by any law relating to naturalization of citizenship or registry of aliens; or

(b) Whoever utters, sells, disposes of or uses as true or genuine, any false, forged, altered, antedated or counterfeited oath, notice, affidavit, certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship, or any order, record, signature or other instrument, paper or proceeding required or authorized by any law relating to naturalization or citizenship or registry of aliens, or any copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(c) Whoever, with intent unlawfully to use the same, possesses any false, forged, altered, antedated or counterfeited certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship purporting to have been issued under any law of the United States, or copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(d) Whoever, without lawful authority, engraves or possesses, sells or brings into the United States any plate in the likeness or similtude of any plate designed, for the printing of a declaration of intention, or certificate or documentary evidence of naturalization or citizenship; or

(e) Whoever, without lawful authority, brings into the United States any document printed therefrom; or

(f) Whoever, without lawful authority, possesses any blank certificate of arrival, blank declaration of intention or blank certificate of naturalization or citizenship provided by the Immigration and Naturalization Service, with intent unlawfully to use the same; or

(g) Whoever, with intent unlawfully to use the same, possesses a distinctive paper adopted by the proper officer or agency of the United States for the printing or engraving of a declaration of intention to become a citizen, or certificate of naturalization or certificate of citizenship; or

(h) Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen or certificate of naturalization or citizenship, or any part thereof—

Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1427. Sale of naturalization or citizenship papers

Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be fined not more than $5,000 or imprisoned not more than five years or both.

§ 1428. Surrender of canceled naturalization certificate

Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

§ 1429. Penalties for neglect or refusal to answer subpena

Any person who has been subpenaed under the provisions of subsection (d) of section 336 of the Immigration and Nationality Act to appear at the final hearing of a petition for naturalization, and who shall neglect or refuse to so appear and to testify, if in the power of such person to do so, shall be fined not more than $5,000 or imprisoned not more than five years or both.

* * * * * * *

§ 1546. Fraud and misuse of visas, permits, and other documents

(a) Whoever knowingly forges, counterfeits, alters, or falsely makes any immigrant or nonimmigrant visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any such visa, permit, border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or the Commissioner of the Immigration and Naturalization Service, or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigrant or nonimmigrant visa, permit or other document required for entry into the United States, or has in his possession a distinctive paper which has been adopted by the Attorney General or the Commissioner of the Immigration and Naturalization Service for the printing of such visas, permits, or documents; or

Whoever, when applying for an immigrant or nonimmigrant visa, permit, or other document required for entry into the United States, or for admission to the United States personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name without disclosing his true identity, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, such visa, permit, or other document, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement—

Shall be fined in accordance with this title or imprisoned not more than five years, or both.

(b) Whoever uses—

(1) an identification document, knowing (or having reason to know) that the document was not issued lawfully for the use of the possessor,

(2) an identification document knowing (or having reason to know) that the document is false, or

(3) a false attestation,

for the purpose of satisfying a requirement of section 274A(b) of the Immigration and Nationality Act, shall be fined in accordance with this title, or imprisoned not more than two years, or both.

(c) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

[NOTE.—A person convicted under this section is subject to deportation under section 241(a)(5) of the Immigration and Nationality Act. This section was amended by § 103 of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603, approved Nov. 6, 1986, 100 Stat. 3380).]

* * * * * * *

§ 2424. Filing factual statement about alien individual

(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien individual, the place at which that individual is kept, and all facts as to the date of that individual's entry into the United States, the port through which that individual entered, that individual's age, nationality, and parentage, and concerning that individual's procuration to come to this country within the knowledge of such person; and

Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien individual within three years after that individual has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien individual with the Commissioner of Immigration and Naturalization; or

Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within that person's knowledge or belief with reference to the age, nationality, or parentage of any such alien individual, or concerning that individual's procuration to come to this country—

Shall be fined not more than $2,000 or imprisoned not more than two years, or both.

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by that person, or the information therein contained, might tend to incriminate that person or subject that person to a penalty or forfeiture, but no information contained in the statement or any evidence which is directly or indirectly derived from such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section.

* * * * * * *

§ 3583. Inclusion of a term of supervised release after imprisonment

(a) In General.—The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute.

(b) Authorized Terms of Supervised Release.—Except as otherwise provided, the authorized terms of supervised release are—

(1) for a Class A or Class B felony, not more than five years;

(2) for a Class C or Class D felony, not more than three years; and

(3) for a Class E felony, or for a misdemeanor (other than a petty offense), not more than one year.

(c) Factors To Be Considered in Including a Term of Supervised Release.—The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), and (a)(6).

(d) Conditions of Supervised Release.—The court shall order, as an explicit condition of supervised release, that the defendant not commit another Federal, State, or local crime during the term of supervision. The court may order, as a further condition of supervised release, to the extent that such condition—

(1) is reasonably related to the factors set forth in section 353(a)(1), (a)(2)(B), (a)(2)(C), and (a)(2)(D);

(2) involves no greater deprivation of liberty than is reasonably necessary for the purposees set forth in section 3553(a)(2)(B), (a)(2)(C), and (a)(2)(D); and

(3) is consistent with any pertinent policy statements issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a);

any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20), and any other condition it considers to be appropriate and that the defendant not possess illegal controlled substances. If an alien defendant is subject to deportation, the court may provide, as a condition of supervised release, that he be deported and remain outside the United States, and may order that he be delivered to a duly authorized immigration official for such deportation.

(e) Modification of Conditions or Revocation.—The court may, after considering the factors set forth in section 3553 (a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), and (a)(6)—

(1) terminate a term of supervised release previously ordered and discharge the person released at any time after the expiration of one year of supervised release pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the person released and the interest of justice;

(2) extend a term of supervised release if less than the maximum authorized term was previously imposed, and may modify, reduce, or enlarge the conditions of supervised release, at any time prior to the expiration or termination of the term of supervised release, pursuant to the provisions of the Federal Rules of

Criminal Procedure relating to the modification of probation and the provisions applicable to the initial setting of the terms and conditions of post-release supervision; or

(3) revoke a term of supervised release, and require the person to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision, if it finds by a preponderance of the evidence that the person violated a condition of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation and to the provisions of applicable policy statements issued by the Sentencing Commission, except that a person whose term is revoked under this paragraph may not be required to serve more than 3 years in prison if the offense for which the person was convicted was a Class B felony, or more than 2 years in prison if the offense was a Class C or D felony. [; or]

(5) [sic] order the person to remain at his place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.

(f) WRITTEN STATEMENT OF CONDITIONS.—The court shall direct that the probation officer provide the defendant with a written statement that sets forth all the conditions to which the term of supervised release is subject, and that is sufficiently clear and specific to serve as a guide for the defendant's conduct and for such supervision as is required.

(g) POSSESSION OF CONTROLLED SUBSTANCES.—If the defendant is found by the court to be in the possession of a controlled substance, the court shall terminate the term of supervised release and require the defendant to serve in prision not less than one-third of the term of supervised release.

[NOTE.—This section was added by § 212(a)(2) of Pub. L. 98-473, and became effective on Nov. 1, 1987.]

* * * * * * *

§ 4113. Status of alien offender transferred to a foreign country

(a) An alien who is deportable from the United States but who has been granted voluntary departure pursuant to section 1252(b) or section 1254(e) of title 8, United States Code, and who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have voluntarily departed from this country.

(b) An alien who is the subject of an order of deportation from the United States pursuant to section 1252 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been deported from this country.

(c) An alien who is the subject of an order of exclusion and deportation from the United States pursuant to section 1226 of title 8, United States Code, who is transferred to a foreign country pursuant to this chapter shall be deemed for all purposes to have been excluded from admission and deported from the United States.

II. EXCERPTS FROM RECENT ACTS

A. IMMIGRATION REFORM AND CONTROL ACT OF 1986 AND SAVE PROVISIONS

1. Immigration Reform and Control Act of 1986

(Public Law 99–603, Nov. 6, 1986; as amended by the Department of Justice Appropriations Act, 1988 (Pub. L. 100-202), and the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525))

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Reform and Control Act of 1986".

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

SEC. 101. CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—

(1) NEW PROVISION.—[Omitted; inserted section 274A, see pp. 147-161; technical corrections made to this section by § 2(a)(1) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2609).]

(2) INTERIM REGULATIONS.—The Attorney General shall, not later than the first day of the seventh month beginning after the date of the enactment of this Act, first issue, on an interim or other basis, such regulations as may be necessary in order to implement this section.

(3) GRANDFATHER FOR CURRENT EMPLOYEES.—(A) Section 274A(a)(1) of the Immigration and Nationality Act shall not apply to the hiring, or recruiting or referring of an individual for employment which has occurred before the date of the enactment of this Act.

(B) Section 274A(a)(2) of the Immigration and Nationality Act shall not apply to continuing employment of an alien who was hired before the date of the enactment of this Act.

(b) CONFORMING AMENDMENTS TO MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION ACT.—(1) [Omitted; miscellaneous amendments to Migrant and Seasonal Agriculture Worker Protection Act (Pub. L. 97-470), see pp. 358-361.]

(2) The amendments made by paragraph (1) shall apply to the employment, recruitment, referral, or utilization of the services of an individual occurring on or after the first day of the seventh month beginning after the date of the enactment of this Act; except that if the provisions of section 274A of the Immigration and Nationality Act are terminated as of a date under subsection (l) of that section, then such amendments shall no longer apply as of such date.

(c) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—[Omitted]

(d) STUDY ON THE USE OF A TELEPHONE VERIFICATION SYSTEM FOR DETERMINING EMPLOYMENT ELIGIBILITY OF ALIENS.—(1) The Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a study for use by the Department of Justice in determining employment eligibility of aliens in the United States. Such study shall concentrate on those data bases that are currently available to the Federal Government which through the use of a telephone and computation capability could be used to verify instantly the employment eligibility status of job applicants who are aliens.

(2) Such study shall be conducted in conjunction with any existing Federal program which is designed for the purpose of providing information on the resident or employment status of aliens for employers. The study shall include an analysis of costs and benefits which shows the differences in costs and efficiency of having the Federal Government or a contractor perform this service. Such comparisons should include reference to such technical capabilities as processing techniques and time, verification techniques and time, back up safeguards, and audit trail performance.

(3) Such study shall also concentrate on methods of phone verification which demonstrate the best safety and service standards, the least burden for the employer, the best capability for effective enforcement, and procedures which are within the boundaries of the Privacy Act of 1974.

(4) Such study shall be conducted within twelve months of the date of enactment of this Act.

(5) The Attorney General shall prepare and transmit to the Congress a report—

(A) not later than six months after the date of enactment of this Act, describing the status of such study; and

(B) not later than twelve months after such date, setting forth the findings of such study.

(e) FEASIBILITY STUDY OF SOCIAL SECURITY NUMBER VALIDATION SYSTEM.—The Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, shall conduct a study of the feasibility and costs of establishing a social security number validation system to assist in carrying out the purposes of section 274A of the Immigration and Nationality Act, and of the privacy concerns that would be raised by the establishment of such a system. The Secretary shall submit to the Committees on Ways and Means and Judiciary of the House of Representatives and to the Committees on Finance and Judiciary of the Senate, within 2 years after the date of the enactment of this Act, a full and complete report on the results of the study together with such recommendations as may be appropriate.

(f) COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS.—(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

(3) Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.

SEC. 102. UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES.

(a) IN GENERAL.—[Omitted; inserted section 274B, see pp.161-166.]

(b) No Effect on EEOC Authority.—Except as may be specifically provided in this section, nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5), or any other authority provided therein.

(c) Clerical Amendment.—[omitted]

SEC. 103. FRAUD AND MISUSE OF CERTAIN IMMIGRATION-RELATED DOCUMENTS.

[Omitted; amended § 1546 of title 18, U.S. Code, relating to fraud and misuse of visas, permits, and other documents. For text, as amended, see pp. 246–247.]

Part B—Improvement of Enforcement and Services

SEC. 111. AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) Two Essential Elements.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and of other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act.

(b) Increased Authorization of Appropriations for INS and EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, $422,000,000, and for fiscal year 1988, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, $12,000,000, and for fiscal year 1988, $15,000,000.

Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

(c) Use of Funds for Improved Services.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach may include the establishment of appropriate local community task forces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) Supplemental Authorization of Appropriations for Wage and Hour Enforcement.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

SEC. 112. UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES.

(a) Criminal Penalties.—[Omitted; amended subsection (a) of section 274; see p. 145.]

(b) Miscellaneous Amendments to Seizure and Forfeiture Procedures.—[Omitted; amended subsection (b) of section 274; see pp. 146–147.]

SEC. 113. IMMIGRATION EMERGENCY FUND.

[Omitted; added subsection (b) to § 404; see p. 225.]

SEC. 114. LIABILITY OF OWNERS AND OPERATORS OF INTERNATIONAL BRIDGES AND TOLL ROADS TO PREVENT THE UNAUTHORIZED LANDING OF ALIENS.

[Omitted; added subsection (c) to § 271; see p. 142.]

SEC. 115. ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES.

It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly, and

(2) in the enforcement of such laws, the Attorney General shall take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

SEC. 116. RESTRICTING WARRANTLESS ENTRY IN THE CASE OF OUTDOOR AGRICULTURAL OPERATIONS.

[Omitted; added a subsection (e) to § 287, as amended by § 2(e) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525); see p. 177.]

SEC. 117. RESTRICTIONS ON ADJUSTMENT OF STATUS.

[Omitted; amended section 245(c)(2); see p. 120.]

PART C—VERIFICATION OF STATUS UNDER CERTAIN PROGRAMS

SEC. 121. VERIFICATION OF IMMIGRATION STATUS OF ALIENS APPLYING FOR BENEFITS UNDER CERTAIN PROGRAMS.

(a) REQUIRING IMMIGRATION STATUS VERIFICATION.—

(1) UNDER AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—[Amended section 1137 of the Social Security Act (42 U.S.C. 1320b-7). For subsections (d) and (e) of such section, added by this paragraph, as amended, see pp. 271-272.]

(2) UNDER HOUSING ASSISTANCE PROGRAMS.—[Added subsections (d) and (e) to section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a). For such section 214, as amended, see pp. 273-276.]

(3) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—[Added subsections (c), (d), and (e) to section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091). For such subsections, as amended, see pp. 276-277.]

(b) PROVIDING 100 PERCENT REIMBURSEMENT FOR COSTS OF IMPLEMENTATION AND OPERATION.—

(1) UNDER AFDC PROGRAM.—Section 403(a)(3) of the Social Security Act is amended by inserting before subparagraph (B) the following new subparagraph:

"(A) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d),".

(2) UNDER MEDICAID PROGRAM.—Section 1903(a) of such Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(3) UNDER UNEMPLOYMENT COMPENSATION PROGRAM.—The first sentence of section 302(a) of such Act is amended by inserting before the period at the end the following: ", including 100 percent of so much of the reasonable expenditures of the State as are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d)".

(4) UNDER CERTAIN TERRITORIAL ASSISTANCE PROGRAMS.—Sections 3(a)(4), 1003(a)(3), 1403(a)(3), and 1603(a)(4) of the Social Security Act (as in effect without regard to section 301 of the Social Security Amendments of 1972) are each amended by redesignating subparagraph (B) as subparagraph (C) and inserting after subparagraph (A) the following new subparagraph:

"(B) 100 percent of so much of such expenditures as are for the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus".

(5) UNDER THE FOOD STAMP PROGRAM.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by adding at the end the following new subsection:

"(h)* The Secretary is authorized to pay to each State agency an amount equal to 100 per centum of the costs incurred by the State agency in implementing and operating the immigration status verification system described in section 1137(d) of the Social Security Act.".

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* This subsection has been redesignated as subsection (j) by § 321(c) of Pub. L. 100-435.

(6) UNDER HOUSING ASSISTANCE PROGRAMS.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"PAYMENT FOR IMPLEMENTATION OF IMMIGRATION STATUS VERIFICATION SYSTEM

"SEC. 20. The Secretary is authorized to pay to each public housing authority an amount equal to 100 percent of the costs incurred by the authority in implementing and operating the immigration status verification system under section 214(c) of the Housing and Community Development Act of 1980 with respect to financial assistance made available pursuant to this Act.".

(7) UNDER TITLE IV EDUCATIONAL ASSISTANCE.—Section 489(a) of the Higher Education Act of 1965 (20 U.S.C. 1096) is amended by adding at the end the following: "In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).".

(c) EFFECTIVE DATES.—

(1) IMMIGRATION AND NATURALIZATION SERVICE ESTABLISHING VERIFICATION SYSTEM BY OCTOBER 1, 1987.—The Commissioner of Immigration and Naturalization Service shall implement a system for the verification of immigration status under paragraphs (3) and (4)(B)(i) of section 1137(d) of the Social Security Act (as amended by this section) so that the system is available to all the States by not later than October 1, 1987. Such system shall not be used by the Immigration and Naturalization Service for administrative (noncriminal) immigration enforcement purposes and shall be implemented in a manner that provides for verification of immigration status without regard to the sex, color, race, religion, or nationality of the individual involved.

(2) HIGHER MATCHING EFFECTIVE IN FISCAL YEAR 1988.—The amendments made by subsection (b) take effect on October 1, 1987.

(3) USE OF VERIFICATION SYSTEM REQUIRED IN FISCAL YEAR 1989.—Except as provided in paragraph (4), the amendments made by subsection (a) take effect on October 1, 1988. States have until that date to begin complying with the requirements imposed by those amendments.

(4) USE OF VERIFICATION SYSTEM NOT REQUIRED FOR A PROGRAM IN CERTAIN CASES.—

(A) REPORT TO RESPECTIVE CONGRESSIONAL COMMITTEES.—With respect to each covered program (as defined in subparagraph (D)(i)), each appropriate Secretary shall examine and report to the appropriate Committees of the House of Representatives and of the Senate, by not later than April 1, 1988, concerning whether (and the extent to which)—

(i) the application of the amendments made by subsection (a) to the program is cost-effective and otherwise appropriate, and

(ii) there should be a waiver of the application of such amendments under subparagraph (B).

The amendments made by subsection (a) shall not apply with respect to a covered program described in subclause (II), (V), (VI), or (VII) of subparagraph (D)(i) until after the date of receipt of such report with respect to the program.

(B) WAIVER IN CERTAIN CASES.—If, with respect to a covered program, the appropriate Secretary determines, on the Secretary's own initiative or upon an application by an administering entity and based on such information as the Secretary deems persuasive (which may include the results of the report required under subsection (d)(1) and information contained in such an application), that—

(i) the appropriate Secretary or the administering entity has in effect an alternative system of immigration status verification which—

(I) is as effective and timely as the system otherwise required under the amendments made by subsection (a) with respect to the program, and

(II) provides for at least the hearing and appeals rights for beneficiaries that would be provided under the amendments made by subsection (a), or

(ii) the costs of administration of the system otherwise required under such amendments exceed the estimated savings, such Secretary may waive the application of such amendments to the covered program to the extent (by State or other geographic area or otherwise) that such determinations apply.

(C) BASIS FOR DETERMINATION.—A determination under subparagraph (B)(ii) shall be based upon the appropriate Secretary's estimate of—

(i) the number of aliens claiming benefits under the covered program in relation to the total number of claimants seeking benefits under the program,

(ii) any savings in benefit expenditures reasonably expected to result from implementation of the verification program, and

(iii) the labor and nonlabor costs of administration of the verification system,

the degree to which the Immigration and Naturalization Service is capable of providing timely and accurate information to the administering entity in order to permit a reliable determination of immigration status, and such other factors as such Secretary deems relevant.

(D) DEFINITIONS.—In this paragraph:

(i) The term "covered program" means each of the following programs:

(I) The aid to families with dependent children program under part A of title IV of the Social Security Act.

(II) The medicaid program under title XIX of the Social Security Act.

(III) Any State program under a plan approved under title I, X, XIV, or XVI of the Social Security Act.

(IV) The unemployment compensation program under section 3304 of the Internal Revenue Code of 1954.

(V) The food stamp program under the Food Stamp Act of 1977.

(VI) The programs of financial assistance for housing subject to section 214 of the Housing and Community Development Act of 1980.

(VII) The program of grants, loans, and work assistance under title IV of the Higher Education Act of 1965.

(ii) The term "appropriate Secretary" means, with respect to the covered program described in—

(I) subclauses (I) through (III) of clause (i), the Secretary of Health and Human Services;

(II) clause (i)(IV), the Secretary of Labor;

(III) clause (i)(V), the Secretary of Agriculture;

(IV) clause (i)(VI), the Secretary of Housing and Urban Development; and

(V) clause (i)(VII), the Secretary of Education.

(iii) The term "administering entity" means, with respect to the covered program described in—

(I) subclause (I), (II), (II), (IV), or (V) of clause (i), the State agency responsible for the administration of the program in a State;

(II) clause (i)(VI), the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance; and

(III) clause (i)(VII), an institution of higher education involved.

(5) FUNDS AUTHORIZED.—Such sums as may be necessary are authorized for the Immigration and Naturalization Service to carry out the purposes of this section.

(d) GAO REPORTS.—

(1) REPORT ON CURRENT PILOT PROJECTS.—The Comptroller General shall—

(A) examine current pilot projects relating to the System for Alien Verification of Eligibility (SAVE) operated by, or through cooperative agreements with, the Immigration and Naturalization Service, and

(B) report, not later than October 1, 1987, to Congress and to the Commissioner of the Immigration and Naturalization Service concerning the effectiveness of such projects and any problems with the implementation of such projects, particularly as they may apply to implementation of the system referred to in subsection (c)(1).

(2) REPORT ON IMPLEMENTATION OF VERIFICATION SYSTEM.—The Comptroller General shall—

(A) monitor and analyze the implementation of such system,

(B) report to Congress and to the appropriate Secretaries described in subsection (c)(4)(D)(ii), by not later than April 1, 1989, on such implementation, and

(C) include in such report such recommendations for changes in the system as may be appropriate.

TITLE II—LEGALIZATION

SEC. 201. LEGALIZATION OF STATUS.

(a) PROVIDING FOR LEGALIZATION PROGRAM.—(1) [Omitted; inserted section 245A; see pp. 121–131.]

(2) [Omitted; table of contents amendment.]

(b) CONFORMING AMENDMENTS.—[Omitted; conforming amendments to sections 402, 472(a), and 473(a)(1) of the Social Security Act.]

(c) MISCELLANEOUS PROVISIONS.—

(1) PROCEDURES FOR PROPERTY ACQUISITION OR LEASING.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Attorney General is authorized to expend from the appropriation provided for the administration and enforcement of the Immigration and Nationality Act, such amounts as may be necessary for the leasing or acquisition of property in the fulfillment of this section. This authority shall end two years after the effective date of the legalization program.

(2) USE OF RETIRED FEDERAL EMPLOYEES.—Notwithstanding any other provision of law, the retired or retainer pay of a member or former member of the Armed Forces of the United States or the pay and annuity of a retired employee of the Federal Government who retired on or before January 1, 1986, shall not be reduced while such individual is temporarily employed by the Immigration and Naturalization Service for a period of not to exceed 18 months to perform duties in connection with the adjustment of status of aliens under this section. The Service shall not temporarily employ more than 300 individuals under this paragraph. Notwithstanding any other provision of law, the annuity of a retired employee of the Federal Government shall not be increased or redetermined under chapter 83 or 84 of title 5, United States Code, as a result of a period of temporary employment under this paragraph.

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not apply and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96–422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) Record of Permanent Residence as of January 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) No Offset in Number of Visas Available.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) Application of Immigration and Nationality Act Provisions.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

SEC. 203. UPDATING REGISTRY DATE TO JANUARY 1, 1972.

(a) In General.—[Omitted; amended section 249; see p. 133.]

(b) Conforming Amendment to Table of Contents.—[Omitted.]

(c) Clarification.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to aliens provided lawful permanent resident status under section 249 of that Act.

SEC. 204. STATE LEGALIZATION IMPACT-ASSISTANCE GRANTS.

(a) Appropriation of Funds.—

(1) In general.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to carry out this section (and including Federal, State, and local administrative costs) $1,000,000,000 (less the amount described in paragraph (2)) for fiscal year 1988 and for each of the three succeeding fiscal years.

(2) Offset.—

(A) In general.—Subject to subparagraphs (B) through (D), the amount described in this paragraph for a fiscal year is equal to the amount estimated to be expended by the Federal Government in the fiscal year for the programs of financial assistance, medical assistance, and assistance under the Food Stamp Act of 1977 for aliens who would not be eligible for such assistance under paragraph (1)(A) of section 245A(h) of the Immigration and Nationality Act but for the provisions of paragraph (2) or paragraph (3) of such section.

(B) No offset for certain ssi eligible individuals.—The amount described in this paragraph shall not include any amounts attributable to supplemental security benefits paid under title XVI of the Social Security Act or medical assistance furnished under a State plan approved under title XIX of the Social Security Act, in the case of an alien who is determined by the Secretary of Health and Human Services, based on an application for benefits under title XVI of the Social Security Act or section 212 of Public Law 93–66 filed prior to the date designated by the Attorney General in accordance with section 245A(a)(1)(A) of the Immigration and Nationality Act, to be permanently residing in the United States under color of law as provided in section 1614(a)(1)(B)(ii) of the Social Security Act and to be eligible to receive such benefits for the month prior to the month in which such date occurs, for such time as such alien continues without interruption to be eligible to receive such benefits in accordance with the provisions of title XVI of the Social Security Act or section 212 of Public Law 93–66, as appropriate.

(C) Estimated initial offset.—For purposes of subparagraph (A), with respect to fiscal year 1988, the amount estimated to be expended is equal to $70,000,000. For subsequent fiscal years, the amount estimated to be expended shall be such estimate as is contained in the annual fiscal budget submitted for that year to the Congress by the President.

(D) Adjustment for estimates.—If the actual amount of expenditures by the Federal Government described in subparagraph (A) for a fiscal year exceeds, or is less than, the amount estimated to be expended under subparagraph (C) for that year (taking into account any adjustment under this subparagraph), then for the subsequent fiscal year the amount described in this paragraph shall be decreased, or increased, respectively, by the amount of such excess or deficit for that previous fiscal year.

(b) ENTITLEMENT OF STATES.—(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall allot to each State with an application approved under subsection (d)(1) an amount determined in accordance with a formula, established by the Secretary by regulation, which takes into account—

(A) the number of eligible legalized aliens (as defined in subsection (j)(4)) residing in the State in that fiscal year;

(B) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year;

(C) the amount of expenditures the State is likely to incur in that fiscal year in providing assistance for eligible legalized aliens for which reimbursement or payment may be made under this section;

(D) the ratio of the amount of such expenditures in the State to the total of all such expenditures in all the States;

(E) adjustments for the difference in previous years between the State's actual expenditures (described in subparagraph (C)) incurred and the allocation provided the State under this section for those years; and

(F) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such amounts.

(2) To the extent that all the funds appropriated under this section for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under this section for the fiscal year or because some States have indicated in their description of activities that they do not intend to use, in that fiscal year or any succeeding fiscal year (before fiscal year 1995), the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(3) In determining the number of eligible legalized aliens for purposes of paragraph (1), the Secretary may estimate such number on the basis of such data as he may deem appropriate.

(4) For each fiscal year the Secretary shall make payments, as provided by section 6503 of title 31, United States Code, to each State from its allotment under this subsection. Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the purposes for which it was made in subsequent fiscal years, but shall not remain available after September 30, 1994.

(c) PROVIDING ASSISTANCE.—(1) Of the amounts allotted to a State under this section, the State may only use such funds, in accordance with this section—

(A) for reimbursement of the costs of programs of public assistance provided with respect to eligible legalized aliens, for which such aliens were not disqualified under section 245A(h) of the Immigration and Nationality Act at the time of such assistance,

(B) for reimbursement of the costs of programs of public health assistance provided to any alien who is, or is applying on a timely basis to become, an eligible legalized alien, and

(C) to make payments to State educational agencies for the purpose of assisting local educational agencies of that State in providing educational services for eligible legalized aliens.

Subject to paragraph (2), the State may select the distribution of the use of such funds among such purposes.

(2)(A) Subject to subparagraphs (B) and (C), of the amounts allotted to a State under this section in any fiscal year, 10 percent shall be used by the State for reimbursement under paragraph (1)(A), 10 percent shall be used by the State for reimbursement under paragraph (1)(B), and 10 percent shall be used by the State for payments under paragraph (1)(C).

(B) If a State does not require the use of the full 10 percent provided under subparagraph (A) for a particular function described in a subparagraph of paragraph (1) for a fiscal year, the unused portion shall, subject to subparagraph (C), be equally distributed among the two other subparagraphs.

(C) In no case shall the funds provided under this section be used to provide reimbursement for more than 100 percent of the costs described in paragraph (1)(A) or (1)(B).

(3) To the extent that a State provides for the use of funds for the purpose described in paragraph (1)(C), the definitions and provisions of the Emergency Immigrant Education Act of 1984 (title VI of Public Law 98-511; 20 U.S.C. 4101 et seq.) [1] shall apply to payments under such paragraph in the same manner as they apply to payments under that Act, except that, in applying this paragraph—

(A) any reference in such Act to "immigrant children" shall be deemed to be a reference to "eligible legalized aliens" (including such aliens who are over 16 years of age) during the 60-month period beginning with the first month in which such an alien is granted temporary lawful residence under the Immigration and Nationality Act;

(B) in determining the amount of payment with respect to eligible legalized aliens who are over 16 years of age, the phrase "described under paragraph (2)" shall be deemed to be stricken from section 606(b)(1)(A) of such Act (20 U.S.C. 4105(b)(1)(A)) [2];

(C) the State educational agency may provide such educational services to adult eligible legalized aliens through local educational agencies and other public and private nonprofit organizations, including community-based organizations of demonstrated effectiveness; and

(D) such services may include English language and other programs designed to enable such aliens to attain the citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act.

(d) STATEMENTS AND ASSURANCES.—(1) No State is eligible for payment under subsection (b) unless the State—

(A) has filed with, and had approved by, the Secretary an application containing such information, including the information described in paragraph (2) and criteria for and administrative methods of disbursing funds received under this section, as the Secretary determines to be necessary to carry out this section, and

(B) transmits to the Secretary a statement of assurances that certifies that (i) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c)(1), (ii) the State will provide a fair method (as determined by the State) for the allocation of funds among State and local agencies in accordance with paragraph (2) and subsection (c)(2), and (iii) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements of paragraph (2) and subsections (e) and (f).

(2) The application of each State under this subsection for each fiscal year must include detailed information on—

(A) the number of eligible legalized aliens residing in the State, and

(B) the costs (excluding any such costs otherwise paid from Federal funds) which the State and each locality is likely to incur for the purposes described in subsection (c)(1).

(e) REPORTS AND AUDITS.—(1)(A) Each State shall prepare and submit to the Secretary annual reports on its activities under this section. In order to properly evaluate and to compare the performance of different States assisted under this section and to assure the proper expenditure of funds under this section, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary—

(i) to secure an accurate description of those activities,

(ii) to secure a complete record of the purposes for which funds were spent and of the recipients of such funds, and

(iii) to determine the extent to which funds were expended consistent with this section.

Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(B) The Secretary shall annually report to the Congress on activities funded under this section and shall provide for transmittal of a copy of such report to each State.

(2)(A) For requirements relating to audits of funds received by a State under this section, see chapter 75 of title 31, United States Code (relating to requirements for single audit).

(B) Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this section, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this section.

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[1] For text of the Emergency Immigrant Education Act of 1984, see pp. 277–281.

[2] Reference should be to "section 4406(b)(1)(A) of such Act (20 U.S.C. 3126(b)(1)(A))".

(C) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this section in accordance with this section. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(3) The State shall make copies of the reports and audits required by this subsection available for public inspection within the State.

(4)(A) For the purpose of evaluating and reviewing the assistance provided under this section, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such assistance, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(B) In conjunction with an evaluation or review under subparagraph (A), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with subparagraph (A).

(f) LIMITATION ON PAYMENTS.—(1) Payment under this section shall not be made for costs to the extent the costs are otherwise reimbursed or paid for under other Federal programs.

(2) Payment may only be made to a State with respect to costs for assistance of a program of public assistance or a program of public health assistance to the extent such assistance is otherwise generally available under such programs to citizens residing in the State.

(g) CRIMINAL PENALTIES FOR FALSE STATEMENTS.—Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or misrepresentation of a material fact in connection with the furnishing of assistance or services for which payment may be made by a State from funds allotted to the State under this section, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined in accordance with title 18, United States Code, imprisoned for not more than five years, or both.

(h) ANTI-DISCRIMINATION PROVISION.—(1)(A) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this section are considered to be programs and activities receiving Federal financial assistance.

(B) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section.

(2) Whenever the Secretary finds that a State or locality which has been provided payment from an allotment under this section has failed to comply with a provision of law referred to in paragraph (1)(A), with paragraph (1)(B), or with an applicable regulation (including one prescribed to carry out paragraph (1)(B)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(C) take such other action as may be provided by law.

(3) When a matter is referred to the Attorney General pursuant to paragraph (2)(A), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (1)(A) or in violation of paragraph (1)(B), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(i) CONSULTATION WITH STATE AND LOCAL OFFICIALS.—In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(j) Definitions.—For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

(2) The term "programs of public assistance" means programs in a State or local jurisdiction which—

(A) provide for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(3) The term "programs of public health assistance" means programs in a State or local jurisdiction which—

(A) provide public health services, including immunizations for immunizable diseases, testing and treatment for tuberculosis and sexually-transmitted diseases, and family planning services,

(B) are generally available to needy individuals residing in the State or locality, and

(C) receive funding from units of State or local government.

(4) The term "eligible legalized alien" means an alien who has been granted lawful temporary resident status under section 210, 210A, or 245A of the Immigration and Nationality Act, but only until the end of the five-year period beginning on the date the alien was first granted such status.

TITLE III—REFORM OF LEGAL IMMIGRATION

Part A—Temporary Agricultural Workers

SEC. 301. H-2A AGRICULTURAL WORKERS.

(a) Providing New "H-2A" Nonimmigrant Classification for Temporary Agricultural Labor.—[Omitted; amended § 101(a)(15)(H)(ii); see p. 9.]

(b) Involvement of Departments of Labor and Agriculture in H-2A Program.—[Omitted; added a sentence at the end of § 214(c); see p. 71.]

(c) Admission of H-2A Workers.—[Omitted; added § 218, as redesignated by § 2(l)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2612); see pp. 81-86.]

(d) Effective Date.—The amendments made by this section apply to petitions and applications filed under sections 214(c) and 218 of the Immigration and Nationality Act on or after the first day of the seventh month beginning after the date of the enactment of this Act (hereinafter in this section referred to as the "effective date").

(e) Regulations.—The Attorney General, in consultation with the Secretary of Labor and the Secretary of Agriculture, shall approve all regulations to be issued implementing sections 101(a)(15)(H)(ii)(a) and 218 of the Immigration and Nationality Act. Notwithstanding any other provision of law, final regulations to implement such sections shall first be issued, on an interim or other basis, not later than the effective date.

(f) Sense of Congress Respecting Consultation with Mexico.—It is the sense of Congress that the President should establish an advisory commission which shall consult with the Governments of Mexico and of other appropriate countries and advise the Attorney General regarding the operation of the alien temporary worker program established under section 218 of the Immigration and Nationality Act.

(g) Conforming Amendment to Table of Contents.—[Omitted.]

SEC. 302. LAWFUL RESIDENCE FOR CERTAIN SPECIAL AGRICULTURAL WORKERS.

(a) In General.—[Omitted; added § 210; see pp. 37-44.]

(2) [Omitted; conforming amendment to table of contents.]

(b) Conforming Amendments.—[Omitted; conforming amendments to Sections 402(f) and 472(a) of the Social Security Act.]

SEC. 303. DETERMINATIONS OF AGRICULTURAL LABOR SHORTAGES AND ADMISSION OF ADDITIONAL SPECIAL AGRICULTURAL WORKERS.

(a) In General.—[Omitted; added § 210A; see pp. 44-53.]

(b) Deportation of Certain Workers Who Fail to Perform Seasonal Agricultural Services.—[Omitted; added paragraph (20) to § 241(a); see p. 106.]

(c) [3] Clerical Amendment.—[Omitted; conforming amendment to table of contents.]

(e) Conforming Amendments.—[Omitted; amended sections 402(f) and 472(a) of the Social Security Act.]

SEC. 304. COMMISSION ON AGRICULTURAL WORKERS.

(a) Establishment and Composition of Commission.—(1) There is established a Commission on Agricultural Workers (hereinafter in this section referred to as the "Commission"), to be composed of 12 members—

(A) six to be appointed by the President,

(B) three be appointed by the Speaker of the House of Representatives, and

(C) three to be appointed by the President pro tempore of the Senate.

(2) In making appointments under paragraph (1)(A), the President shall consult—

(A) with the Attorney General in appointing two members,

(B) with the Secretary of Labor in appointing two members, and

(C) with the Secretary of Agriculture in appointing two members.

(3) A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(4) Members shall be appointed to serve for the life of the Commission.

(b) Functions of Commission.—(1) The Commission shall review the following:

(A) The impact of the special agricultural worker provisions on the wages and working conditions of domestic farmworkers, on the adequacy of the supply of agricultural labor, and on the ability of agricultural workers to organize.

(B) The extent to which aliens who have obtained lawful permanent or temporary resident status under the special agricultural worker provisions continue to perform seasonal agricultural services and the requirement that aliens who become special agricultural workers under section 210A of the Immigration and Nationality Act perform 90 man-days of seasonal agricultural services for certain periods in order to avoid deportation or to become naturalized.

(C) The impact of the legalization program and the employers' sanctions on the supply of agricultural labor.

(D) The extent to which the agricultural industry relies on the employment of a temporary workforce.

(E) The adequacy of the supply of agricultural labor in the United States and whether this supply needs to be further supplemented with foreign labor and the appropriateness of the numerical limitation on additional special agricultural workers imposed under section 210A(b) of the Immigration and Nationality Act.

(F) The extent of unemployment and underemployment of farmworkers who are United States citizens or aliens lawfully admitted for permanent residence.

(G) The extent to which the problems of agricultural employers in securing labor are related to the lack of modern labor-management techniques in agriculture.

(H) Whether certain geographic regions need special programs or provisions to meet their unique needs for agricultural labor.

(I) Impact of the special agricultural worker provisions on the ability of crops harvested in the United States to compete in international markets.

(2) The Commission shall conduct an overall evaluation of the special agricultural worker provisions, including the process for determining whether or not an agricultural labor shortage exists.

(c) Report to Congress.—The Commission shall report to the Congress not later than five years after the the date of the enactment of this Act on its reviews under subsection (b). The Commission shall include in its report recommendations for appropriate changes that should be made in the special agricultural worker provisions.

(d) Compensation of Members.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, the daily equivalent of the minimum annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties of the Commission. Each member of the Commission who is such an officer or employee shall serve without additional pay.

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[3] Subsection (c), relating to application of certain State assistance provisions of § 204 of the Immigration Reform and Control Act of 1986 to aliens lawfully admitted for permanent or temporary residence under § 210 or 210A of the Immigration and Nationality Act, was stricken by § 2(n)(3) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2613); it formerly read as follows:

(c) Application of Certain State Assistance Provisions.—For purposes of section 204 of this Act (relating to State legalization assistance), the term "eligible legalized alien" includes an alien who becomes an alien lawfully admitted for permanent or temporary residence under section 210 or 210A of the Immigration and Nationality Act, but only until the end of the 5-year period beginning on the date the alien was first granted permanent or temporary resident status.1

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) Meetings of Commission.—(1) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The Chairman and the Vice Chairman of the Commission shall be elected by the members of the Commission for the life of the Commission.

(3) The Commission shall meet at the call of the Chairman or a majority of its members.

(f) Staff.—(1) The Chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions, without regard to the laws, rules, and regulations governing appointment in the competitive service. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS–18 of the General Schedule.

(g) Authority of Commission.—(1) The Commission may for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(2) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of such department or agency shall furnish such information to the Commission.

(3) The Commission may accept, use, and dispose of gifts or donations of services or property.

(4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(h) Authorization of Appropriations.—(1) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(i) Termination Date.—The Commission shall cease to exist at the end of the 63-month period beginning with the month after the month in which this Act is enacted.

(j) Definitions.—In this section:

(1) The term "employer sanctions" means the provisions of section 274A of the Immigration and Nationality Act.

(2) The term "legalization program" refers to the provisions of section 245A of the Immigration and Nationality Act.

(3) The term "seasonal agricultural services" has the meaning given such term in section 210(h) of the Immigration and Nationality Act.

(4) The term "special agricultural worker provisions" refers to sections 210 and 210A of the Immigration and Nationality Act.

SEC. 305. ELIGIBILITY OF H-2 AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE.

A nonimmigrant worker admitted to or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)) for agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), but only with respect to legal assistance on matters relating to wages, housing, transportation, and other employment rights as provided in the worker's specific contract under which the nonimmigrant was admitted.

Part B—Other Changes in the Immigration Law

SEC. 311. CHANGE IN COLONIAL QUOTA.

(a) Increase to 5,000.—[Omitted; amended subsections (c) and (e) of section 202; see p. 26.]

(b) Effective Date.—The amendments made by subsection (a) shall apply to fiscal years beginning after the date of the enactment of this Act.

SEC. 312. G-IV SPECIAL IMMIGRANTS.

(a) Special Immigrant Status for Certain Officers and Employees of International Organizations and Their Immediate Family Members.—[Omitted; added subparagraph (I) to § 101(a)(27); see pp. 13–14.]

(b) Nonimmigrant Status for Certain Parents and Children of Aliens Given Special Immigrant Status.—[Omitted; added subparagraph (N) to § 101(a)(15); see p. 10.]

SEC. 313. VISA WAIVER PILOT PROGRAM FOR CERTAIN VISITORS.

(a) Establishing Visa Waiver Pilot Program.—[Omitted; added § 217; see pp. 77–80.]

(b) Limitation on Stay in United States.—[Omitted; added sentence at end of § 214(a); see p. 70.]

(c) Prohibition of Adjustment to Immigrant Status.—[Omitted; added clause (4) at end of § 245(c); see p. 120.]

(d) Prohibition of Adjustment of Nonimmigrant Status.—[Omitted; as amended by § 2(p)(3)(B) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, 102 Stat. 2613), added paragraph (4) at end of § 248; see p. 132.]

(e) Conforming Amendment to Table of Contents.—[Omitted.]

SEC. 314. MAKING VISAS AVAILABLE TO NONPREFERENCE IMMIGRANTS.

(a) Authorization of Additional Visas.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (8 U.S.C. 1151(a)), but subject to the numerical limitations in section 202 of such Act, there shall be made available to qualified immigrants described in section 203(a)(7) of such Act 5,000 visa numbers in each of fiscal years 1987 and 1988 and 15,000[4] visas in each of fiscal years 1989 and 1990.

(b) Distribution of Visa Numbers.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers are otherwise made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that—

(1) the Secretary shall first make such visa numbers available to qualified immigrants who are natives of foreign states the immigration of whose natives to the United States was adversely affected by the enactment of Public Law 89-236[5], and

(2) within groups of qualified immigrants, such visa numbers shall be made available strictly in the chronological order in which they qualify after the date of the enactment of this Act.

(c) Waiver of Labor Certification.—Section 212(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(14)) shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued such a visa under this section.

(d) Application of Definitions of Immigration and Nationality Act.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

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[4] Subsection (a) of § 2 of the Immigration Amendments of 1988 (Pub. L. 100–658, Nov. 15, 1988) provided additional visas for fiscal years 1989 and 1990. Subsection (b) of that section provides as follows:

(b) Administration.—In carrying out the amendment made by subsection (a), the Secretary of State shall continue to use the list of qualified immigrants established under section 314 of the Immigration Reform and Control Act of 1986 before the date of the enactment of this Act, and may continue to carry out such section under the regulations in effect (as of the date of July 1, 1988) under part 43 of title 22 of the Code of Federal Regulations.

[5] For list of foreign states described in paragraph (1), see p. 381.

(e) [6] The amendment made by subsection (b)(1) shall apply to applications submitted under section 244 of the Immigration and Nationality Act before, on, or after the date of the enactment of this Act; but shall not apply to aliens removed from the United States before the date of the enactment of this Act.

SEC. 315. MISCELLANEOUS PROVISIONS.

(a) Equal Treatment of Fathers.—Section 101(b)(1)(D) (8 U.S.C. 1101(b)(1)(D)) is amended by inserting “or to its natural father if the father has or had a bona fide parent-child relationship with the person” after “natural mother”. [7]

(b) Suspension of Deportation for Certain Aliens.—[Omitted; added a paragraph (3) at the end of § 244(b); see p. 118.]

(c) Sense of Congress Respecting Treatment of Cuban Political Prisoners.—It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).

(d) Denial of Crew Member Nonimmigrant Visa in Cases of Strikes.—(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act, an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike.

TITLE IV—REPORTS TO CONGRESS

SEC. 401. TRIENNIAL COMPREHENSIVE REPORT ON IMMIGRATION.

(a) Triennial Report.—The President shall transmit to the Congress, not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report.

(b) Details in Each Report.—Each report shall include—

(1) the number and classification of aliens admitted (whether as immediate relatives, special immigrants, refugees, or under the preferences classifications, or as nonimmigrants), paroled, or granted asylum, during the relevant period;

(2) a reasonable estimate of the number of aliens who entered the United States during the period without visas or who became deportable during the period under section 241 of the Immigration and Nationality Act; and

(3) a description of the impact of admissions and other entries of immigrants, refugees, asylees, and parolees into the United States during the period on the economy, labor and housing markets, the educational system, social services, foreign policy, environmental quality and resources, the rate, size, and distribution of population growth in the United States, and the impact on specific States and local units of government of high rates of immigration resettlement.

(c) History and Projections.—The information (referred to in subsection (b)) contained in each report shall be—

(1) described for the preceding three-year period, and

(2) projected for the succeeding five-year period, based on reasonable estimates substantiated by the best available evidence.

(d) Recommendations.—The President also may include in such report any appropriate recommendations on changes in numerical limitations or other policies under title II of the Immigration and Nationality Act bearing on the admission and entry of such aliens to the United States.

SEC. 402. REPORTS ON UNAUTHORIZED ALIEN EMPLOYMENT.

The President shall transmit to Congress annual reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens) during the first three years after its implementation. Each report shall include—

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[6] Subsection (e) was added, effective November 6, 1986, by § 2(q)(2) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525, Oct. 24, 1988, 102 Stat. 2614).

[7] Note that § 210(a) of Pub. L. 100–459 amended § 101(a)(42) of the INA; see footnote 24, p. 17, with respect to the treatment of natural fathers of illegitimate children where the children are placed for adoption.

(1) an analysis of the adequacy of the employment verification system provided under subsection (b) of that section;

(2) a description of the status of the development and implementation of changes in that system under subsection (d) of that section, including the results of any demonstration projects conducted under paragraph (4) of such subsection; and

(3) an analysis of the impact of the enforcement of that section on—

(A) the employment, wages, and working conditions of United States workers and on the economy of the United States,

(B) the number of aliens entering the United States illegally or who fail to maintain legal status after entry, and

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors.

SEC. 403. REPORTS ON H-2A PROGRAM.

(a) PRESIDENTIAL REPORTS.—The President shall transmit to the Committees on the Judiciary of the Senate and of the House of Representatives reports on the implementation of the temporary agricultural worker (H-2A) program, which shall include—

(1) the number of foreign workers permitted to be employed under the program in each year;

(2) the compliance of employers and foreign workers with the terms and conditions of the program;

(3) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers; and

(4) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested,

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers, and

(D) the relative benefits to domestic workers and burdens upon employers of a policy which requires employers, as a condition for certification under the program, to continue to accept qualified United States workers for employment after the date the H-2A workers depart for work with the employer.

The recommendations under subparagraph (D) shall be made in furtherance of the Congressional policy that aliens not be admitted under the H-2A program unless there are not sufficient workers in the United States who are able, willing, and qualified to perform the labor or services needed and that the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States similarly employed.

(b) DEADLINES.—A report on the H-2A temporary worker program under subsection (a) shall be submitted not later than two years after the date of the enactment of this Act, and every two years thereafter.

SEC. 404. REPORTS ON LEGALIZATION PROGRAM.

(a) IN GENERAL.—The President shall transmit to Congress two reports on the legalization program established under section 245A of the Immigration and Nationality Act.

(b) INITIAL REPORT DESCRIBING LEGALIZED ALIENS.—The first report, which shall be transmitted not later than 18 months after the end of the application period for adjustment to lawful temporary residence status under the program, shall include a description of the population whose status is legalized under the program, including—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics, and

(3) a general profile and characteristics.

(c) SECOND REPORT ON IMPACT OF LEGALIZATION PROGRAM.—The second report, which shall be transmitted not later than three years after the date of transmittal of the first report, shall include a description of—

(1) the impact of the program on State and local governments and on public health and medical needs of individuals in the different regions of the United States,

(2) the patterns of employment of the legalized population, and

(3) the participation of legalized aliens in social service programs.

SEC. 405. REPORT ON VISA WAIVER PILOT PROGRAM.

(a) MONITORING AND REPORT ON THE PILOT PROGRAM.—The Attorney General and the Secretary of State shall jointly monitor the pilot program established under section 217 of the Immigration and Nationality Act and shall report to the Congress not later than two years after the beginning of the program.

(b) DETAILS IN REPORT.—The report shall include—

(1) an evaluation of the program, including its impact—

(A) on the control of alien visitors to the United States,

(B) on consular operations in the countries designated under the program, as well as on consular operations in other countries in which additional consular personnel have been relocated as a result of the implementation of the program, and

(C) on the United States tourism industry; and

(2) recommendations—

(A) on extending the pilot program period, and

(B) on increasing the number of countries that may be designated under the program.

SEC. 406. REPORT ON IMMIGRATION AND NATURALIZATION SERVICE.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall prepare and transmit to the Congress a report describing the type of equipment, physical structures, and personnel resources required to improve the capabilities of the Immigration and Naturalization Service so that it can adequately carry out services and enforcement activities, including those required to carry out the amendments made by this Act.

SEC. 407. SENSE OF THE CONGRESS.

It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this Act regarding the implementation of this Act and its possible effect on the United States or Mexico. After the consultation, it is the sense of the Congress that the President should report to the Congress any legislative or administrative changes that may be necessary as a result of the consultation and the enactment of this legislation.

TITLE V—STATE ASSISTANCE FOR INCARCERATION COSTS OF ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS

SEC. 501. REIMBURSEMENT OF STATES FOR COSTS OF INCARCERATING ILLEGAL ALIENS AND CERTAIN CUBAN NATIONALS.

(a) REIMBURSEMENT OF STATES.—Subject to the amounts provided in advance in appropriation Acts, the Attorney General shall reimburse a State for the costs incurred by the State for the imprisonment of any illegal alien or Cuban national who is convicted of a felony by such State.

(b) ILLEGAL ALIENS CONVICTED OF A FELONY.—An illegal alien referred to in subsection (a) is any alien who is any alien convicted of a felony who is in the United States unlawfully and—

(1) whose most recent entry into the United States was without inspection, or

(2) whose most recent admission to the United States was as a nonimmigrant and—

(A) whose period of authorized stay as a nonimmigrant expired, or

(B) whose unlawful status was known to the Government,

before the date of the commission of the crime for which the alien is convicted.

(c) MARIELITO CUBANS CONVICTED OF A FELONY.—A Marielito Cuban convicted of a felony referred to in subsection (a) is a national of Cuba who—

(1) was allowed by the Attorney General to come to the United States in 1980,

(2) after such arrival committed any violation of State or local law for which a term of imprisonment was imposed, and

(3) at the time of such arrival and at the time of such violation was not an alien lawfully admitted to the United States—

(A) for permanent or temporary residence, or

(B) under the terms of an immigrant visa or a nonimmigrant visa issued, under the laws of the United States.

(d) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

(e) STATE DEFINED.—The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

TITLE VI—COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SEC. 601. COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) There is established a Commission for the Study of International Migration and Cooperative Economic Development (in this section referred to as the "Commission"), to be composed of twelve members—

(A) three members to be appointed by Speaker of the House of Representatives;

(B) three members to be appointed by the Minority Leader of the House of Representatives;

(C) three members to be appointed by the Majority Leader of the Senate; and

(D) three members to be appointed by the Minority Leader of the Senate.

(2) Members shall be appointed for the life of the Commission. Appointments to the Commission shall be made within 90 days after the date of the enactment of this Act. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) A majority of the members of the Commission shall elect a Chairman.

(b) DUTY OF COMMISSION.—The Commission, in consultation with the governments of Mexico and other sending countries in the Western Hemisphere, shall examine the conditions in Mexico and such other sending countries which contribute to unauthorized migration to the United States and mutually beneficial, reciprocal trade and investment programs to alleviate such conditions. For purposes of this section, the term "sending country" means a foreign country a substantial number of whose nationals migrate to, or remain in, the United States without authorization.

(c) REPORT TO THE PRESIDENT AND CONGRESS.—Not later than three years after the appointment of the members of the Commission, the Commission shall prepare and transmit to the President and to the Congress a report describing the results of the Commission's examination and recommending steps to provide mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to unauthorized migration to the United States.

(d) COMPENSATION OF MEMBERS, MEETINGS, STAFF, AUTHORITY OF COMMISSION, AND AUTHORIZATION OF APPROPRIATIONS.—(1) The provisions of subsections (d), (e)(3), (f), (g), and (h) of section 304 shall apply to the Commission in the same manner as they apply to the Commission established under section 304.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings. Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment. [8]

(e) TERMINATION DATE.—The Commission shall terminate on the date on which a report is required to be transmitted by subsection (c), except that the Commission may continue to function for not more than thirty days thereafter for the purpose of concluding its activities.

TITLE VII—FEDERAL RESPONSIBILITY FOR DEPORTABLE AND EXCLUDABLE ALIENS CONVICTED OF CRIMES

SEC. 701. EXPEDITIOUS DEPORTATION OF CONVICTED ALIENS.

[Omitted; added subsection (i) at the end of § 242; see p. 113.]

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[8] Sentence added by § 2(r) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100-525, 102 Stat. 2614).

SEC. 702. IDENTIFICATION OF FACILITIES TO INCARCERATE DEPORTABLE OR EXCLUDABLE ALIENS.

The President shall require the Secretary of Defense, in cooperation with the Attorney General and by not later than 60 days after the date of the enactment of this Act, to provide to the Attorney General a list of facilities of the Department of Defense that could be made available to the Bureau of Prisons for use in incarcerating aliens who are subject to exclusion or deportation from the United States.

2. System for Alien Verification of Eligibility (SAVE)

Various public welfare programs were amended, in §121(a) of the Immigration Reform and Control Act of 1986, to require a verification of immigration or citizenship status as a condition of eligibility for benefits under those programs. These provisions became effective under §121(c) of such Act, see pp. 256–257. The provisions of those programs, as amended, are shown below.

(a) AFDC, MEDICAID, UNEMPLOYMENT COMPENSATION, AND FOOD STAMP PROGRAMS.—Section 1137 of the Social Security Act (42 U.S.C. 1320b–7), as amended by section 121(a)(1) of the Immigration Reform and Control Act of 1986 and as amended by §411(k)(15)(A) of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360, 102 Stat. 799), provides, in part, as follows:

SEC. 1137. (a) In order to meet the requirements of this section, a State must have in effect an income and eligibility verification system which meets the requirements of subsection (d) and * * * .

* * * * * * *

(b) The programs which must participate in the income and eligibility verification system are—

(1) the aid to families with dependent children program under part A of title IV of this Act;

(2) the medicaid program under title XIX of this Act;

(3) the unemployment compensation program under section 3304 of the Internal Revenue Code of 1954;

(4) the food stamp program under the Food Stamp Act of 1977; and

(5) any State program under a plan approved under title I, X, XIV, or XVI of this Act.

* * * * * * *

(d) The requirements of this subsection, with respect to an income and eligibility verification system of a State, are as follows:

(1)(A) The State shall require, as a condition of an individual's eligibility for benefits under any program listed in subsection (b), a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection—

(i) in the case of the program described in subsection (b)(1), any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's being considered a dependent child or to the individual's being treated as a caretaker relative or other person whose needs are to be taken into account in making the determination under section 402(a)(7),

(ii) in the case of the program described in subsection (b)(4)—

(I) any reference to the State shall be considered a reference to the State agency, and

(II) any reference to an individual's eligibility for benefits under the program shall be considered a reference to the individual's eligibility to participate in the program as a member of a household, and

(III) the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for benefits under the applicable program.

(2) If such an individual is not a citizen or national of the United States, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the State determines constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the State shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, if, at the time of application for benefits, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the State—

(i) shall provide a reasonable opportunity to submit to the State evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the State determines constitutes reasonable evidence indicating such status—

(i) the State shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the State may not delay, deny, reduce, or terminate the individual's eligibility for benefits under the program on the basis of the individual's immigration status, and

(iii) the State shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the State determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status under the applicable program—

(A) the State shall deny or terminate the individual's eligibility for benefits under the program, and

(B) the applicable fair hearing process shall be made available with respect to the individual.

(e) Each Federal agency responsible for administration of a program described in subsection (b) shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to any error in the State's determination to make an individual eligible for benefits based on citizenship or immigration status—

(1) if the State has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the State, under subsection (d)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

(3) because the State, under subsection (d)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the State's request for official verification of the immigration status of the individual, or

(4) because of a fair hearing process described in subsection (d)(5)(B).

(f) Subsections (a)(1) and (d) shall not apply with respect to aliens seeking medical assistance for the treatment of an emergency medical condition under section 1903(v)(2).

(b) HOUSING ASSISTANCE PROGRAMS.—Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a), as added by §121(a)(2) of the Immigration Reform and Control Act of

1986 and as amended by §164 of the Housing and Community Development Act of 1987 (Public Law 100-242, February 5, 1988), provides as follows:

RESTRICTION ON USE OF ASSISTED HOUSING

Sec. 214. [42 U.S.C. 1436a] (a) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

(1) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;

(2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259);

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) or pursuant to the granting of asylum (which has not been terminated) under section 208 of such Act (8 U.S.C. 1158);

(4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));

(5) an alien who is lawfully present in the United States as a result of the Attorney General's withholding deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); or

(6) an alien lawfully admitted for temporary or permanent residence under section 245A of the Immigration and Nationality Act.

(b) For purposes of this section the term "financial assistance" means financial assistance made available pursuant to the United States Housing Act of 1937, Section 235, or 236 of the National Housing Act, or section 101 of the Housing and Urban Development Act of 1965.

(c)(1) If, following completion of the applicable hearing process, financial assistance for any individual receiving such assistance on the date of the enactment of the Housing and Community Development Act of 1987 is to be terminated, the public housing agency or other local governmental entity involved (in the case of public housing or assistance under section 8 of the United States Housing Act of 1937) or the Secretary of Housing and Urban Development (in the case of any other financial assistance) may, in its discretion, take one of the following actions:

(A) Permit the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse is a citizen of the United States, a national of the United States, or an alien resident of the United States described in any of paragraphs (1) through (6) of subsection (a). For purposes of this paragraph, the term "family" means a head of household, any spouse, any parents of the head of household, any parents of the spouse, and any children of the head of household or spouse.

(B) Defer the termination of financial assistance, if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing. Any deferral under this subparagraph shall be for a 6-month period and may be renewed by the public housing agency or other entity involved for an aggregate period of 3 years. At the beginning of each deferral period, the public housing agency or other entity involved shall inform the individual and family members of their ineligibility for financial assistance and offer them other assistance in finding other affordable housing.

(2) Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may not make financial assistance available for the benefit of—

(A) any alien who—

(i) has a resident in a foreign country that such alien has no intention of abandoning;

(ii) is a bona fide student qualified to pursue a full course of study; and

(iii) is admitted to the United States temporarily and solely for purposes of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General after consultation with the Department of Education of the United States, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student (and if any such institution of learning or place of study fails to make such reports promptly the approval shall be withdrawan); and

(B) the alien spouse and minor children of any alien described in subparagraph (A), if accompanying such alien or following to join such alien.

(d) * The following conditions apply with respect to financial assistance being provided for the benefit of an individual:

(1)(A) There must be a declaration in writing by the individual (or, in the case of an individual who is a child, by another on the individual's behalf), under penalty of perjury, stating whether or not the individual is a citizen or national of the United States, and, if that individual is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance.

(2) If such an individual is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987, there must be presented either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the Secretary determines constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the Secretary shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with States) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, is not 62 years of age or older, and is receiving financial assistance on the date of enactment of the Housing and Community Development Act of 1987, if, at the time of application or recertification for financial assistance, the statement described in paragraph (1) is submitted but the documentation required under paragraph (2)(A) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the Secretary—

(i) shall provide a reasonable opportunity to submit to the Secretary evidence indicating a satisfactory immigration status, or to appeal to the Immigration and Naturalization Service the verification determina-

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*Subsection (d), as added by § 121(a)(2) of IRCA and amended by § 164(c) of Public Law 100-242, took effect on October 1, 1988. Section 164(g) of Public Law 100-242 provides as follows:

(g) TRANSITIONAL CERTIFICATION AND DOCUMENTATION PROVISIONS.—In carrying out section 214 of the Housing and Community Development Act of 1980 during fiscal year 1988, the Secretary of Housing and Urban Development shall require, as a condition of providing financial assistance for the benefit of any individual, that such individual—

(1) declare in writing, under penalty of perjury, whether or not such individual is a citizen or national of the United States; and

(2) if not a citizen or national—

(A) declare in writing, under penalty of perjury, the immigration status of such individual, if such individual is not less than 62 years of age and is receiving financial assistance on the date of the enactment of the Housing and Community Development Act of 1987; or

(B) provide such documentation regarding the immigration status of such individual as the Secretary may require by regulation.

tion of the Immigration and Naturalization Service under paragraph (3), and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if any documents or additional information are submitted as evidence under subparagraph (A), or if appeal is made to the Immigration and Naturalization Service with respect to the verification determination of the Service under paragraph (3)—

(i) the Secretary shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents or additional information for official verification,

(ii) pending such verification or appeal, the Secretary may not delay, deny, reduce, or terminate the individual's eligibility for financial assistance on the basis of the individual's immigration status, and

(iii) the Secretary shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the Secretary determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the Secretary shall deny or terminate the individual's eligibility for financial assistance, and

(B) the applicable fair hearing process shall be made available with respect to the individual.

(6) For purposes of paragraph (5)(B), the applicable fair hearing process made available with respect to any individual shall include not less than the following procedural protections:

(A) The Secretary shall provide the individual with written notice of the determination described in paragraph (5) and of the opportunity for a hearing with respect to the determination.

(B) Upon timely request by the individual, the Secretary shall provide a hearing before an impartial hearing officer designated by the Secretary, at which hearing the individual may produce evidence of a satisfactory immigration status.

(C) The Secretary shall notify the individual in writing of the decision of the hearing officer on the appeal of the determination in a timely manner.

(D) Financial assistance may not be denied or terminated until the completion of the hearing process.

For purposes of this subsection, the term "Secretary" means the Secretary of Housing and Urban Development, a public housing agency, or another entity that determines the eligibility of an individual for financial assistance.

(e) The Secretary of Housing and Urban Development shall not take any compliance, disallowance, penalty, or other regulatory action against an entity with respect to any error in the entity's determination to make an individual eligible for financial assistance based on citizenship or immigration status—

(1) if the entity has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the entity, under subsection (d)(4)(A)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to provide a reasonable opportunity to submit documentation,

(3) because the entity, under subsection (d)(4)(B)(ii) (or under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)), was required to wait for the response of the Immigration and Naturalization Service to the entity's request for official verification of the immigration status of the individual, or

(4) because of a fair hearing process described in subsection (d)(5)(B) (or provided for under any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(f)(1) Notwithstanding any other provision of law, no agency or official of a State or local government shall have any liability for the design or implementation of the Federal verification system described in subsection (d) if the implementation by the State or local agency or official is in accordance with Federal rules and regulations.

(2) The verification system of the Department of Housing and Urban Development shall not supersede or affect any consent agreement entered into or court decree or court order entered into prior to the date of the enactment of the Housing and Community Development Act of 1987.

(g) The Secretary of Housing and Urban Development is authorized to pay to each public housing agency or other entity an amount equal to 100 percent of the costs incurred by the public housing agency or other entity in implementing and operating an immigration status verification system under subsection (d) (or any alternative system for verifying immigration status with the Immigration and Naturalization Service authorized in the Immigration Reform and Control Act of 1986 (Public Law 99-603)).

(c) TITLE IV EDUCATIONAL ASSISTANCE.—Subsections (h), (i), and (j) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091), as added by §121(a)(3) of the Immigration Reform and Control Act of 1986 and as amended by §2(g) of the Immigration Technical Corrections Act of 1988 (Pub. L. 100-525, 102 Stat. 2611), provide as follows:

(h) IMMIGRATION STATUS VERIFICATION REQUIRED.—The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with the Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the institution determines, after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

(i) Limitations of Enforcement Actions Against Institutions.—The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) if the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (h)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

(3) because the institution, under subsection (h)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

(4) because of a fair hearing process described in subsection (h)(5)(B).

(h) Validity of Loan Guarantees for Loan Payments Made Before Immigration Status Verification Completed.—Notwithstanding subsection (h), if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (h) had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date the entity receives the notice.

B. Emergency Immigrant Education Act of 1984

(Originally enacted as title VI of the Education Amendments of 1984, Public Law 98–511, October 19, 1984, and rewritten and enacted as part D of title IV of the Elementary and Secondary Education Act of 1965 by § 1001 of Public Law 100–297, April 28, 1988.)

PART D—IMMIGRANT EDUCATION

SEC. 4401. [20 U.S.C. 3121] SHORT TITLE.

This part may be cited as the "Emergency Immigrant Education Act of 1984".

SEC. 4402. [20 U.S.C. 3122] DEFINITIONS.

As used in this part—

(1) The term "immigrant children" means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

(2) The term "elementary or secondary nonpublic schools" means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

SEC. 4403. [20 U.S.C. 3123] AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1900, 1991, 1992, and 1993.

(b) ALLOCATION OF APPROPRIATIONS.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

SEC. 4404. [20 U.S.C. 3124] STATE ADMINISTRATIVE COSTS.

The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

SEC. 4405. [20 U.S.C. 3125] WITHHOLDING.

Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

SEC. 4406. [20 U.S.C. 3126] STATE ENTITLEMENTS.

(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through 1993 for the purpose set forth in section 4407.

(b) ENTITLEMENTS.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

(A) at least 500; or

(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year,

whichever number is less.

(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee [sic], asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individual eligible for services under this part.

(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

(c) DETERMINATIONS OF NUMBER OF CHILDREN.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

SEC. 4407. [20 U.S.C. 3127] USES OF FUNDS.

(a) SUPPLEMENTARY EDUCATIONAL SERVICES AND COSTS.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in an elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) KINDS OF SERVICES AND COSTS.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

SEC. 4408. [20 U.S.C. 3128] APPLICATIONS.

(a) SUBMISSION.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and

(6) provide assurances—

(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) Approval of Application.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

SEC. 4409. [20 U.S.C. 3129] PAYMENTS.

(a) Amount.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

(b) Services to Children Enrolled in Nonpublic Schools.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

SEC. 4410. [20 U.S.C. 3130] REPORTS.

(a) Biennial Report.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

(b) Report to Congress.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

C. Amerasian Immigration

(§ 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in § 101(e) of Public Law 100-202, 101 Stat. 1329-183, December 22, 1987, 8 U.S.C. 1186b)

SEC. 584. AMERASIAN IMMIGRATION.

(a)(1) Notwithstanding any numerical limitations specified in the Immigration and Nationality Act, the Attorney General may admit aliens described in subsection (b) to the United States as immigrants if—

(A) they are admissible (except as otherwise provided in paragraph (2)) as immigrants, and

(B) they are issued an immigrant visa and depart from Vietnam during the 2-year period beginning 90 days after the date of the enactment of this Act [viz., beginning March 22, 1988].

(2) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any lien seeking admission to the United States under this section, and the Attorney General on the recommendation of a consular officer may waive any other provision of such section (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as relates to trafficking in narcotics) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Attorney General shall be in writing and shall be granted only on an individual basis following an investigation by a consular officer.

(3) Notwithstanding section 221(c) of the Immigration and Nationality Act, immigrant visas issued to aliens under this section shall be valid for a period of 8 months.

(b)(1) An alien described in this section is an alien who, as of the date of the enactment of this Act, is residing in Vietnam and who establishes to the satisfaction of a consular officer or an officer of the Immigration and Naturalization Service after a face-to-face interview, that the alien—

(A)(i) was born in Vietnam after January 1, 1962, and before January 1, 1976, and (ii) was fathered by a citizen of the United States (such an alien in this section referred to as a "principal alien");

(B) is the spouse or child of a principal alien and is accompanying, or following to join, the principal alien; or

(C) subject to paragraph (2), either (i) is the principal alien's natural mother (or is the spouse or child of such mother), or (ii) has acted in effect as the principal alien's mother, father, or next-of-kin (or is the spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the principal alien involved is unmarried and the officer referred to in paragraph (1) has determined, in the officer's discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members, and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unit. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, the natural mother of the principal alien involved shall not, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act by virtue of such parentage.

(3) For purposes of this section, the term "child" has the meaning given such term in section 101(b)(1)(A), (B), (C), (D), and (E) of the Immigration and Nationality Act.

(c)[*] Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration

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[*] The 6th proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989

Continued

and Nationality Act to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act are eligible for benefits under such chapter.

(d) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(e) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

D. TITLE IX OF THE FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

(Public Law 100-204, 101 Stat. 1399, December 22, 1987; as amended by § 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Pub. L. 100-461, Oct. 1, 1988, 102 Stat. 2268-36)

TITLE IX—IMMIGRATION AND REFUGEE PROVISIONS

SEC. 901. PROHIBITION ON EXCLUSION OR DEPORTATION OF ALIENS ON CERTAIN GROUNDS.

(a) [1] IN GENERAL.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

(b) CONSTRUCTION REGARDING EXCLUDABLE ALIENS.—Nothing in this section shall be construed as affecting the existing authority of the executive branch to deport, to deny issuance of a visa to, to deny adjustment of status of, [2] or to deny admission to the United States of, any alien—

(1) for reasons of foreign policy or national security, except that such deportation or denial may not be based on past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States,

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(Pub. L. 100-461, Oct. 1, 1988, 102 Stat. 2268-36) provides that "the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act [viz., October 1, 1988] and before the end of the two-year period described in subsection (a)(1)(B) of such section, and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the United States (rather than merely to aliens)".

[1] Previous to the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, subsection (a) read as follows:

(a) IN GENERAL.—Notwithstanding any other provision of law, no alien may be denied a visa or excluded from admission into the United States, subject to restrictions or conditions on entry into the United States, or subject to deportation because of any past, current, or expected beliefs, statements, or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United States.

[2] The phrase "to deny adjustment of status of" was inserted by the 8th proviso of § 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988).

unless [3] such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an immigrant. [sic];

(2) who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity or is likely to engage after entry in a terrorist activity; or

(3) who seeks to enter in an official capacity as a representative of a purported labor organization in a country where such organizations are in fact instruments of a totalitarian state.

In addition, nothing in subsection (a) shall be construed as applying to an alien who is described in section 212(a)(33) of the Immigration and Nationality Act (relating to those who assisted in the Nazi persecutions), to an alien described in the last sentence of section 101(a)(42) of such Act (relating to those assisting in other persecutions) who is seeking the benefits of section 207, 208, 243(h)(1), or 245A of such Act (relating to admission as a refugee, asylum, withholding of deportation, and legalization), or to an alien who is described in section 21(c) of the State Department Basic Authorities Act of 1956. In paragraph (2), the term "terrorist activity" means the organizing, abetting, or participating in a wanton or indiscriminate act of violence with extreme indifference to the risk of causing death or serious bodily harm to individuals not taking part in armed hostilities.

(c) Construction Regarding Standing to Sue.—Nothing in this section shall be construed as affecting standing in any Federal court or in any administrative proceeding.

(d) [4] Effective Period.—Subsection (a) shall only apply to—

(1) applications for nonimmigrant visas submitted before January 1, 1991;

(2) admissions sought before March 1, 1991; and

(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.

SEC. 902. ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE. [5]

(a) Adjustment of Status.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November 1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as

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[3] The language from "unless" through the period was inserted by the 8th proviso of § 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988).

[4] Previous to the enactment of the 9th proviso of § 555 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Pub. L. 100-461, Oct. 1, 1988), subsection (d) read as follows:

(d) Effective Period.—Subsection (a) shall only apply to—

(1) applications for visas submitted during 1988;

(2) admissions sought after December 31, 1987, and before March 1, 1989; and

(3) deportations based on activities occurring during 1988 or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time during 1988.

Also, the 10th proviso of § 555 of such Act provides as follows: "That the amendment made in the preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of the enactment of this Act [viz., October 1, 1988]".

[5] For identical, and duplicative, provision, see § 902 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202, shown in Appendix IV. F., p. 336.

a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) STATUS AND ADJUSTMENT OF STATUS.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

SEC. 903. PROCESSING OF CUBAN NATIONALS FOR ADMISSION TO THE UNITED STATES.[6]

(a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officers of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

SEC. 904. INDOCHINESE REFUGEE RESETTLEMENT.

(a)[7] FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambodian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of

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[6] This section is virtually identical to, and duplicative of, § 702 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100–202, 101 Stat. 1329–40, shown in Appendix III. G., at p. 327.

[7] For identical, and duplicative, subsection, see § 802(a) of the Indochinese Refugee Resettlement and Protection Act of 1987 (in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100–202), shown in Appendix III. G., p. 327.

departure from Vietnam for refugees, including Amerasians and long-held "reeducation camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b)[8] RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c)[9] ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Congress that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should continue to recommend generous numbers of admissions from East Asia first asylum camps and from the Orderly Departure Program sufficient to sustain preservation of first asylum and security for Indochinese in Southeast Asia, consistent with worldwide refugee admissions requirements and the consultative processes of the Refugee Act of 1980;

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[8] For identical, and duplicative, subsection, see § 802(b) of the Indochinese Refugee Resettlement and Protection Act of 1987 (in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202), shown in Appendix III. G., at p. 328.

[9] For related sense of the Senate provision, see § 802(c) and (d) of the Indochinese Refugee Resettlement and Protection Act of 1987 (in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202), shown in Appendix III. G., at pp. 320-329.

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam, the number of admissions allocated for Amerasians and their immediate family members should also be generous;

(3) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(4) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

(d)[10] REPORTING.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC. 905. AMERASIAN CHILDREN IN VIETNAM.

(a)[11] FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(1) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(2) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(3) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(4) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(5) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

(6) In September 1984, the United States informed the Socialist Republic of Vietnam that all Amerasian children in Vietnam, their mothers, and qualifying family members would be admitted as refugees to the United States during a three-year period.

(7) Amerasian emigration from Vietnam increased significantly in fiscal year 1985 under the Orderly Departure Program of the United Nations High Commissioner on Refugees.

(8) On January 1, 1986, the Socialist Republic of Vietnam unilaterally suspended interviews of all individuals seeking to leave Vietnam legally under the auspices of the Orderly Departure Program for resettlement in the United States.

(9) On the 19th and 20th of October 1987, the Socialist Republic of Vietnam permitted the United States to resume interviewing Amerasians and their families.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the United States should maintain its strong commitment to receive the Amerasian children in the Socialist Republic of Vietnam and their families;

(2) the Socialist Republic of Vietnam should cooperate fully in facilitating the processing of all Amerasians who desire to be resettled in the United States; and

(3) the Socialist Republic of Vietnam should cooperate fully in the processing of Amerasians for emigration.

SEC. 906. REFUGEES FROM SOUTHEAST ASIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States remains firmly committed to the security of Thailand and to improving relations between our two nations;

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[10] For substantively identical, and duplicative, subsection, see § 803 of the Indochinese Refugee Resettlement and Protection Act of 1987 (in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202), shown in Appendix III. G., p. 329.

[11] For provision substantively identical to, and duplicative of, paragraphs (1) through (5) of this subsection, see § 804 of the Indochinese Refugee Resettlement and Protection Act of 1987 (in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Pub. L. 100-202), shown in Appendix III. G., at p. 329.

(2) the United States refugee resettlement and humanitarian assistance programs constitute an important factor in bilateral relations between the United States and Thailand;

(3) the preservation of first asylum for those fleeing persecution is one of the primary objectives of the United States refugee program;

(4) the actions of another government in labeling refugee populations as "displaced persons" or closing its borders to new arrivals shall not constitute a barrier to the United States considering those individuals or groups to be refugees;

(5) it is in the national interest to facilitate the reunification of separated families of United States citizens and permanent residents, and the Congress will look with disfavor on any nation which seriously hinders emigration for such reunifications;

(6) the persecution of the Cambodian people under the Khmer Rouge rule from 1975–1979, which caused the deaths of up to two million people and in which the bulk of the Khmer people were subjected to life in an Asian Auschwitz, constituted one of the clearest examples of genocide in recent history; and

(7) the invasion of Cambodia by Vietnam and the subsequent occupation of that country by 140,000 Vietnamese troops backing up the Heng Samrin regime, which itself continues to seriously violate the human rights of Cambodians, and the presence of 40,000 heavily armed troops under the control of the same Khmer Rouge leaders, overwhelmingly demonstrate that the life or freedom of any Cambodian not allied with the Khmer Rouge or supporting Heng Samrin would be seriously endangered if such individual were forced by a country of first asylum to return to his or her homeland.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) any Cambodians who are, or had been, at Khao I Dang camp should be considered and interviewed for eligibility for the United States refugee program, irrespective of the date they entered Thailand or that refugee camp;

(2) any Cambodian rejected for admission to the United States who can demonstrate new or additional evidence relating to his claim should have his or her case reviewed;

(3) the United States should work with the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the Government of Thailand to improve the security of all refugee facilities in Thailand and to prevent the forced repatriation of Cambodian refugees;

(4) the United States should treat with utmost seriousness the continued reports of forced repatriations to Laos of would-be asylum seekers, and should lodge strong and continuous protests with the Thai Government to bring about an end to these repatriations, which endanger the life and safety of those involuntarily returned to Laos; and

(5) within the Orderly Departure Program the United States will give high priority consideration to determining the eligibility of serious health cases and cases involving children separated from both parents.

SEC. 907. RELEASE OF YANG WEI.

(a) FINDINGS.—The Congress makes the following findings:

(1) Yang Wei, a Chinese national, studied at the University of Arizona from 1983 until he received his masters of science degree in microbiology in 1986.

(2) In May 1986 Yang Wei returned to China to marry Dr. Che Shaoli and arrange for funding for his continued studies under a PhD program at the University of Arizona.

(3) On January 11, 1987, while still an official student at the University of Arizona, Yang Wei was arrested by the Shanghai Public Security Bureau.

(4) Yang Wei has been held without charge or trial since January 11, 1987.

(5) Mr. Yang's wife, a student at Baylor Medical College in Houston, Texas, has been refused any information about her husband's whereabouts or condition by Chinese authorities.

(6) Mr. Yang's father, Yang Jue, and his mother Bi Shuyun, have been denied all contact with their son.

(7) The Chinese Criminal Procedure law of 1979, sections 92, 97, 125, and 142 provides for a maximum of four and a half months of detention without charge or trial and Yang Wei has now been held over six months, contrary to Chinese law.

(8) Yang Wei has not committed any crime under United States or Chinese law.

(9) Yang Wei and his wife only aspire to freedom and democracy.

(10) The treatment of Mr. Yang and his family is frightening to all Chinese students now studying in the West and meant to be so by Chinese authorities.

(11) Recently more than two thousand Chinese students signed an open letter to express their concern about recent political developments in their country.

(b) POLICY.—It is the sense of Congress that—

(1) the People's Republic of China should immediately release Yang Wei; and

(2) the United States should consider sympathetically applications for asylum from Chinese students studying in the United States who can, on a case-by-case basis, demonstrate a well-founded fear of persecution.

E. IMMIGRATION AMENDMENTS OF 1988

(PUBLIC LAW 100-658, NOVEMBER 5, 1988)

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Amendments of 1988".

SEC. 2. 2-YEAR EXTENSION OF SECTION 314 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

(a) IN GENERAL.—Section 314(a) of the Immigration Reform and Control Act of 1986 is amended by inserting "and 15,000 visa numbers in each of fiscal years 1989 and 1990" after "5,000 visa numbers in each of fiscal years 1987 and 1988".

(b) ADMINISTRATION.—In carrying out the amendment made by subsection (a), the Secretary of State shall continue to use the list of qualified immigrants established under section 314 of the Immigration Reform and Control Act of 1986 before the date of the enactment of this Act, and may continue to carry out such section under the regulations in effect (as of the date of July 1, 1988) under part 43 of title 22 of the Code of Federal Regulations.

SEC. 3. MAKING VISAS AVAILABLE TO IMMIGRANTS FROM UNDERREPRESENTED COUNTRIES TO ENHANCE DIVERSITY IN IMMIGRATION.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (relating to worldwide level of immigration), but subject to the numerical limitations in section 202 of such Act (relating to per country numerical limitations), there shall be made available to qualified immigrants who are natives of underrepresented countries 10,000 visa numbers in each of fiscal years 1990 and 1991.

(b) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers were made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that such visas shall be made available strictly in a random order among those who qualify during an application period established by the Secretary of State and except that if more than one petition is submitted with respect to any alien all such petitions submitted with respect to the alien shall be voided.

(c) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act shall not apply in the determination of an immigrant's eligibility to receive any visa made available under this section or in the admission of such an immigrant issued a visa under this section.

(d) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

(e)* UNDERREPRESENTED COUNTRY DEFINED.—In this section, the term "underrepresented country" means a foreign state natives of which used, during fiscal year

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*For list of underrepresented countries, see Appendix VIII. A., at p. 370 and the foreign state and dependent area lists under Appendixes VIII. B. 3. & 4, pp. 378–380.

1988, less than 25 percent of the maximum number of immigrant visa numbers otherwise available to it in that fiscal year under section 202(a) of the Immigration and Nationality Act. In applying the previous sentence, there shall not be taken into account visa numbers issued under section 314 of the Immigration Reform and Control Act of 1986.

SEC. 4. EXTENSION OF H-1 STATUS FOR CERTAIN REGISTERED NURSES THROUGH DECEMBER 31, 1989.

The Attorney General shall provide for the extension through December 31, 1989, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act for an alien to perform temporarily services as a registered nurse in the case of an alien who has had such status for a period of at least 5 years if—

(1) such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1988 or 1989, due only to the time limitation with respect to such status; or

(2)(A) the alien's status as such a nonimmigrant expired during the period beginning on January 1, 1987, and ending on the date of the enactment of this Act, due only to the time limitation with respect to such status,

(B) the alien is present in the United States as of the date of the enactment of this Act,

(C) the alien has been employed as a registered nurse in the United States since the date of expiration of such status, and

(D) in the case of an alien whose status expired during 1987, the alien's employer has filed with the Immigration and Naturalization Service, before the date of the enactment of this Act, an appeal of a petition filed in connection with the alien's application for extension of such status.

F. ANTI-DRUG ABUSE ACT OF 1988

(PUBLIC LAW 100–690, NOVEMBER 8, 1988)

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SEC. 4604. MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM.

(a) REQUIREMENT TO DEVELOP PROGRAM.—(1) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents.

(2) Within 60 days after the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program required by this section.

(3) The border security program required by this section shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments.

(4) In developing the border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(b) AGENCIES THAT WILL CONTRIBUTE LAW ENFORCEMENT DATA FOR THE SYSTEM.—The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in this section and shall update such information into the system on no less than a monthly basis:

(1) The Drug Enforcement Administration.
(2) The Federal Bureau of Investigation.
(3) The Bureau of Alcohol, Tobacco, and Firearms.
(4) The Internal Revenue Service.
(5) The Federal Aviation Administration.
(6) The United States Marshals Service.
(7) The United States Coast Guard.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $23,000,000 for fiscal year 1989 for the development, procurement, and implementation of a machine-readable travel and identity document border security program. Of this amount $7,000,000 shall be available only for the United States Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) The amounts authorized by paragraph (1) are in addition to other amounts authorized to be appropriated for fiscal year 1989.

(d) CONTINUING FULL IMPLEMENTATION REQUIRED.—All agencies participating in the development and implementation of the border security program and systems mandated in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

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Subtitle D—Authorizations of Appropriations for the Department of Justice, Prisons, and Related Law Enforcement Purposes

SEC. 6151. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, $12,300,000: *Provided*, That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further*, That of such additional appropriations authorized in this section, $4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PILOT PROJECT AND REPORT.—(1) That of such additional appropriation authorized in this section, $8,200,000 shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combating illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits; and

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) LOCAL OFFICE CAPABILITIES IMPROVEMENT PILOT PROJECT.—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

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SEC. 6161. BORDER PATROL DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 6162. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment.

(b) SAN CLEMENTE BORDER PATROL STATION.—There is authorized to be appropriated, out of any funds made available by section 6161, for the fiscal year ending September 30, 1989, $2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) DRUG EDUCATION OFFICERS PROGRAM.—There is authorized to be appropriated, out of any funds made available by this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

(d) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol for fiscal year 1989, $16,400,000. Any amounts appropriated pursuant to this subsection shall be in addition to any amounts appropriated in regular appropriations Acts for such fiscal year. Such additional appropriations shall be used to increase the number of officers of the Border Patrol by not fewer than 435 full-time equivalent officer positions beyond the number of such positions at the Border Patrol on September 30, 1988.

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SEC. 6165. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) DEPARTMENT OF DEFENSE.—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) DEPARTMENT OF STATE.—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

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(e) INS.—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) AUTHORIZATION OF APPROPRIATIONS.—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $273,000.

(g) Rules Applicable to Appropriations.—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

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Subtitle J—Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies

SEC. 7341. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise specifically provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 7342. DEFINITION.

[Omitted; added paragraph (43), defining term "aggravated felony", to §101(a) of the Immigration and Nationality Act, see p. 15.]

SEC. 7343. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) Retention in Custody by the Attorney General.—Section 242(a) (8 U.S.C. 1252(a)) is amended—

(1) in the second sentence, by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (2), any";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting "(1)" immediately after "(a)"; and

(4) by adding at the end thereof the following new paragraphs:

[Omitted; for paragraphs (2) and (3) added, see pp. 108–109.]

(b) Inapplicability of Voluntary Departure.—Section 244(e) (8 U.S.C. 1254(e)) is amended—

(1) by striking out "(e) The" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

[Omitted; for paragraph (2) so added, see p. 119.]

(c) Applicability.—The amendments made by subsections (a) and (b) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony.

SEC. 7344. GROUNDS OF DEPORTATION.

(a) In General.—Section 241(a)(4) (8 U.S.C. 1251((a)(4)) is amended—

(1) by inserting "(A)" before "crime"; and

(2) by inserting after the semicolon the following: "or (B) is convicted of an aggravated felony at any time after entry;".

(b) Applicability.—The amendments made by subsection (a) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony.

SEC. 7345. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

(a) In General.—Section 276 (8 U.S.C. 1326) is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien"; and

(2) by adding at the end thereof the following new subsection:

[Omitted; for subsection (b) so added, see pp. 167–168.]

(b) Applicability.—The amendments made by subsection (a) shall apply to any alien who enters, attempts to enter, or is found in, the United States on or after the date of the enactment of this Act.

SEC. 7346. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) IN GENERAL.—Section 277 (8 U.S.C. 1327) is amended by inserting "(9), (10), (23) (insofar as an alien excludable under any such paragraph has in addition been convicted of an aggravated felony)," immediately after "212(a)".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any aid or assistance which occurs on or after the date of the enactment of this Act.

(c) CONFORMING AMENDMENTS.—[Omitted; conforming amendments to section heading and table of contents omitted.]

SEC. 7347. EXPEDITED DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXPEDITED PROCEEDINGS.—[Omitted; inserted section 242A to the INA, see pp. 113-114.]

(b) APPEALS.—Paragraph (1) of section 106(a) (8 U.S.C. 1105a(a)(1)) is amended to read as follows:

> "(1) a petition for review may be filed not later than 6 months after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony, not later than 60 days after the issuance of such order;".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply in the case of any alien convicted of an aggravated felony on or after the date of the enactment of this Act.

(d) TABLE OF CONTENTS.—[Omitted; conforming amendment to table of contents.]

SEC. 7348. DEPORTATION FOR WEAPONS VIOLATION.

(a) IN GENERAL.—Section 241(a)(14) (8 U.S.C. 1251(a)(14)) is amended by inserting after "law" the following: "any firearm or destructive device (as defined in paragraphs (3) and (4)), respectively, of section 921(a) of title 18, United States Code, or any revolver or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted, on or after the date of the enactment of this Act, of possessing any firearm or destructive device referred to in such subsection.

SEC. 7349. BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by inserting "(or within ten years in the case of an alien convicted of an aggravated felony)" after "within five years".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted of an aggravated felony who seeks admission to the United States on or after the date of the enactment of this Act.

SEC. 7350. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) PILOT PROGRAM REGARDING THE IDENTIFICATION OF CERTAIN ALIENS.—

(1) Within 6 months after the effective date of this subtitle, the Attorney General shall establish, out of funds appropriated pursuant to subsection (c)(2), a pilot program in 4 cities to improve the capabilities of the Immigration and Naturalization Service (hereinafter in this section referred to as the "Service") to respond to inquiries from Federal, State, and local law enforcement authorities concerning aliens who have been arrested for or convicted of, or who are the subject of any criminal investigation relating to, a violation of any law relating to controlled substances (other than an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as added by section 7342 of this subtitle).

(2) At the end of the 12-month period after the establishment of such pilot program, the Attorney General shall provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and law enforcement agencies. The Attorney General shall submit a report containing the conclusions of such evaluation to the Committees on the Judiciary of the House of Representatives and of the Senate within 60 days after the completion of such evaluation.

(b) HIRING OF INVESTIGATIVE AGENTS.—

(1) Any investigative agent hired by the Attorney General for purposes of this section shall be employed exclusively to assist Federal, State, and local law enforcement agencies in combating drug trafficking and crimes of violence by aliens.

(2) Any investigative agent hired under this section who is older than 35 years of age shall not be eligible for Federal retirement benefits made available to individuals who perform hazardous law enforcement activities.

III. REFUGEE-RELATED PROVISIONS

A. Migration and Refugee Assistance Act of 1962

(Public Law 87–510, June 28, 1962; 76 Stat. 121, as amended)

That this Act may be cited as the "Migration and Refugee Assistance Act of 1962".

Sec. 2. [22 U.S.C. 2601] (a) The President is hereby authorized to continue membership for the United States in the Intergovernmental Committee for European Migration in accordance with its constitution approved in Venice, Italy, on October 19, 1953. For the purpose of assisting in the movement of refugees and migrants and to enhance the economic progress of the developing countries by providing for a coordinated supply of selected manpower, there are hereby authorized to be appropriated such amounts as may be necessary from time to time for the payment by the United States of its contributions to the Committee and all necessary salaries and expenses incident to United States participation in the Committee.

(b) [*] There are hereby authorized to be appropriated such amounts as may be necessary from time to time—

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or persons on behalf of whom he is exercising his good offices, and for contributions to the Intergovernmental Committee for European Migration, the International Committee of the Red Cross; and to other relevant international organizations; and

(2) for assistance to or on behalf of refugees who are outside the United States designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the foreign policy interests of the United States.

(c)(1) Whenever the President determines it to be important to the national interest he is authorized to furnish on such terms and conditions as he may determine assistance under this Act for the purpose of meeting unexpected urgent refugee and migration needs.

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[*] Paragraphs (1) through (6) of subsection (b) provided, before enactment of the Refugee Act of 1980, as follows:

(1) for contributions to the activities of the United Nations High Commissioner for Refugees for assistance to refugees under his mandate or in behalf of whom he is exercising his good offices,

(2) for assistance to or in behalf of refugees designated by the President (by class, group, or designation of their respective countries of origin or areas of residence) when the President determines that such assistance will contribute to the defense, or to the security, or to the foreign policy interests of the United States;

(3) for assistance to or in behalf of refugees in the United States whenever the President shall determine that such assistance would be in the interest of the United States: *Provided,* That the term "refugees" as herein used means aliens who (A) because of persecution or fear of persecution on account of race, religion, or political opinion, fled from a nation or area of the Western Hemisphere; (B) cannot return thereto because of fear of persecution on account of race, religion, or political opinion; and (C) are in urgent need of assistance for the essentials of life;

(4) for assistance to State or local public agencies providing services for substantial numbers of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) for (A) health services and educational services to such individuals, and (B) special training for employment and services related thereto;

(5) for transportation to, and resettlement in, other areas of the United States of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and who, having regard for their income and other resources, need assistance in obtaining such services; and

(6) for establishment and maintenance of projects for employment or refresher professional training of individuals who meet the requirements of subparagraph (3) (other than clause (C) thereof) and, who, having regard for their income and resources, need such employment or need assistance in obtaining such retraining.

(2) There is established a United States Emergency Refugee and Migration Assistance Fund to carry out the purposes of this section. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the fund to carry out the purposes of this section, except that no amount of funds may be appropriated which, when added to amounts previously appropriated but not yet obligated, would cause such amounts to exceed $50,000,000. Amounts appropriated hereunder shall remain available until expended.

(3) Whenever the President requests appropriations pursuant to this authorization he shall justify such requests to the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives, as well as to the Committees on Appropriations.

(d) The President shall keep the appropriate committees of Congress currently informed of the use of funds and the exercise of functions authorized in this Act.

(e) Unexpended balances of funds made available under authority of the Mutual Security Act of 1954, as amended, and of the Foreign Assistance Act of 1961, as amended, and allocated or transferred for the purposes of sections 405(a), 405(c), 405(d) and 451(c) of the Mutual Security Act of 1954, as amended, are hereby authorized to be continued available for the purposes of this section and may be consolidated with appropriations authorized by this section.

(f) The President may furnish assistance and make contributions under this Act notwithstanding any provision of law which restricts assistance to foreign countries.

Sec. 3. [22 U.S.C. 2602] (a) In carrying out the purpose of this Act, the President is authorized—

(1) to make loans, advances, and grants to, make and perform agreements and contracts with, or enter into other transactions with, any individual, corporation, or other body of persons, government or government agency, whether within or without the United States, and international and intergovernmental organizations;

(2) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for such purposes.

(b) Whenever the President determines it to be in furtherance of the purposes of this Act, the functions authorized under this Act may be performed without regard to such provisions of law (other than the Renegotiation Act of 1951 (65 Stat. 7)), as amended, regulating the making, performance, amendment, or modification of contracts and the expenditure of funds of the United States Government as the President may specify.

Sec. 4. [22 U.S.C. 2603] (a)(1) The President is authorized to designate the head of any department or agency of the United States Government, or any official thereof who is required to be appointed by the President by and with the advice and consent of the Senate, to perform any functions conferred upon the President by this Act. If the President shall so specify, any individual so designated under this subsection is authorized to redelegate to any of his subordinates any functions authorized to be performed by him under this subsection, except the function of exercising the waiver authority specified in section 3(b) of this Act.

(2) Section 104(b) of the Immigration and Nationality Act (8 U.S.C. 1104(b)), is amended by inserting after the first sentence the following: "He shall be appointed by the President by and with the advice and consent of the Senate.".

(b) [22 U.S.C. 2604] The President may allocate or transfer to any agency of the United States Government any part of any funds available for carrying out the purposes of this Act. Such funds shall be available for obligation and expenditure for the purposes for which authorized in accordance with authority granted in this Act or under authority governing the activities of the agencies of the United States Government to which such funds are allocated or transferred. Funds allocated or transferred pursuant to this subsection to any such agency may be established in separate appropriation accounts on the books of the Treasury.

Sec. 5. [22 U.S.C. 2605] (a) Funds made available for the purposes of this Act shall be available for—

(1) compensation, allowances, and travel of personnel, including members of the Foreign Service whose services are utilized primarily for the purpose of this Act, and without regard to the provisions of any other law, for printing and binding, and for expenditures outside the United States for the procurement of supplies and services and for other administrative and operating purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of Government funds as may be necessary to accomplish the purposes of this Act;

(2) employment or assignment of members of the Foreign Service serving under limited appointments for the duration of operations under this Act;

(3) exchange of funds without regard to section 3651 of the Revised Statutes (31 U.S.C. 543), and loss by exchanges;

(4) expenses authorized by the Foreign Service Act of 1980, not otherwise provided for;

(5) expenses authorized by the Act of August 1, 1956 (70 Stat. 890–892), as amended;

(6) contracting for personal services abroad, and individuals employed by contract to perform such services shall not be considered to be employees of the United States for purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary concerning the employment of such individuals abroad; and

(7) all other expenses determined by the President to be necessary to carry out the purposes of this Act.

(b) Except as may be expressly provided to the contrary in this Act, all determinations, authorizations, regulations, orders, contracts, agreements and other actions issued, undertaken, or entered into under authority of any provision of law repealed by this Act shall continue in full force and effect until modified, revoked, or superseded under the authority of this Act.

SEC. 6. [Amendments to other Acts, executed and text omitted]

SEC. 7. [22 U.S.C. 2601, note] Until the enactment of legislation appropriating funds for activities under this Act, such activities may be conducted with funds made available under section 451(a) of the Foreign Assistance Act of 1961, as amended.

SEC. 8. AUDITS OF U.S. FUNDS RECEIVED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) PROGRAM AUDITS.—Funds may not be made available to the United Nations High Commissioner for Refugees under this or any other Act unless by June 1, 1986, the High Commissioner provides for—

(1) annual program audits by an independent consultant, as selected by the Executive Committee of the United Nations High Commissioner for Refugees, to determine the use of such funds, including audits of the use of such funds by private and voluntary organizations; and

(2) such audits to be made available through the Executive Committee to the Department of State and for inspection by the Comptroller General of the United States.

(b) INSPECTION AND REPORT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall inspect each such audit and submit a report of that inspection to the Congress.

(c) FIRST PROGRAM AUDIT.—The first program audit pursuant to subsection (a)(1) shall begin not later than June 1, 1986.

B. PROTOCOL RELATING TO THE STATUS OF REFUGEES*

(1968, with reservation)

Done at New York January 31, 1967; accession advised by the Senate of the United States of America subject to certain reservations, October 4, 1968; accession approved by the President of the United States of America, subject to said reservations, October 15, 1968 accession of the United States of America deposited with the Secretary-General of the United Nations, with the said reservations, November 1, 1968; proclaimed by the President of the United States of America November 6, 1968; entered into force with respect to the United States of America, Novemeber 1, 1968.

PROTOCOL RELATING TO THE STATUS OF REFUGEES

The States Parties to the present Protocol,

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*19 UST 6223; TIAS 6577. For states which are party to the Protocol, see Dept. of State publication. *Treaties in Force*. For text of reservation, see end of Protocol.

Considering that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951** (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

Considering that the new refugees situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

ARTICLE I

GENERAL PROVISION

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive to the Convention to refugees as herein after denied.

2. For the purpose of the present Protocol, the term "refugees" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words "As a result of events occuring before 1 January 1951 and * * *" and the words "* * * as a result of such events", in article 1A(2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article 1B(1)(*a*) of the Convention, shall, unless extended under article 1B(2) thereof, apply also under the present Protocol.

ARTICLE II

CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commission for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:

(*a*) The condition of refugees;

(*b*) The implementation of the present Protocol;

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE III

INFORMATION ON NATIONAL LEGISLATION

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

ARTICLE IV

SETTLEMENT OF DISPUTES

Any dispute between States Parties to the present Protocol which related to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

** See Convention in following Appendix.

ARTICLE V

ACCESSION

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE VI

FEDERAL CLAUSE

In the case of Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

(*b*) With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;

(*c*) A Federal State Party to the present Protocol shall, at the request or any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE VII

RESERVATIONS AND DECLARATIONS

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provision of the Convention other than those contained in articles 1, 3, 4, 16(1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communications to that effect addressed to the Secretary-General of the United Nations.

4. Declaration made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

ARTICLE VIII

ENTRY INTO FORCE

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.

2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

ARTICLE IX

DENUNCIATION

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

ARTICLE X

NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall inform the States referred to an article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

ARTICLE XI

DEPOSIT IN THE ARCHIVES OF THE SECRETARIAT OF THE UNITED NATIONS

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in article V above.

RESERVATION AS STATED IN PROCLAMATION

WHEREAS the Senate of the United States of America by its resolution of October 4, 1968, two-thirds of the Senators present concurring therein, did advise and consent to accession to the Protocol with the following reservations:

"The United States of America construes Article 29 of the Convention as applying only to refugees who are resident in the United States and reserves the right to tax refugees who are not residents of the United States in accordance with its general rules relating to nonresident aliens.

"The United States of America accepts the obligation of paragraph 1(b) of Article 24 of the Convention except insofar as that paragraph may conflict in certain instances with any provision of title II (old age, survivors' and disability insurance) or title XVIII (hospital and medical insurance for the aged) of the Social Security Act. As to any such provision, the United States will accord to refugees lawfully staying in its territory treatment no less favorable than is accorded aliens generally in the same circumstances."

C. GENEVA CONVENTION RELATING TO THE STATUS OF REFUGEES*

(Done at Geneva, July 28, 1951)

Preamble

THE HIGH CONTRACTING PARTIES

CONSIDERING that the Charter of the United Nations and the Universal Decalration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

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*19 UST 6260: TIAS 6577. The United States is *not* a party to this Convention. However, the U.S. is a party to the Protocol Relating to the Status of Refugees (page 297 et seq.) which incorporates Articles 2 through 34 of this Convention.

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner.

Have agreed as follows:

Chapter I

GENERAL PROVISIONS

Article 1

Definition of the Term "Refugee"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, in unwilling tc return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either

(*a*) "events occurring in Europe before 1 January 1951"; or

(*b*) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (*a*) may at any time extend its obligations by adopting alternative (*b*) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under secton A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(*a*) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(*b*) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(*c*) he has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 2

General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

ARTICLE 3

Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

ARTICLE 4

Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

ARTICLE 5

Rights Granted Apart From This Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

ARTICLE 6

The Term "in the Same Circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfill for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

ARTICLE 7

Exemption from Reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three year's residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfill the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

ARTICLE 8

Exemption from Exceptional Measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

ARTICLE 9

Provisional Measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

ARTICLE 10

Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

ARTICLE 11

Refugee Seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II

JURIDICAL STATUS

ARTICLE 12

Personal Status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

ARTICLE 13

Movable and Immovable Property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

ARTICLE 14

Artistic Rights and Industrial Property

In respect to the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that terriotry to nationals of the country in which he has his habitual residence.

ARTICLE 15

Right of Association

As regards non-political and non-profitmaking associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

ARTICLE 16

Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatun solvi.*

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

Chapter III

GAINFUL EMPLOYMENT

Article 17

Wage-Earning Employment

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfills one of the following conditions:

(*a*) He has completed three years' residence in the country.

(*b*) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

(*c*) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

Chapter IV

WELFARE

Article 20

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21

Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22

Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24

Labour Legislation and Social Security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect to the following matters:

    (*a*) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remunerations, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons and the enjoyment of the benefits of collective bargaining;

    (*b*) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations;

        (i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

        (ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fullfill the contribution conditions prescibed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, con-

cerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to the refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and noncontracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

ARTICLE 25

Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejucidce to articles 27 and 28.

ARTICLE 26

Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

ARTICLE 27

Identity Papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

ARTICLE 28

Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

ARTICLE 29

Fiscal Charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

ARTICLE 30

Transfer of Assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

ARTICLE 31

Refugees Unlawfully in the Country of Refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

ARTICLE 32

Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

ARTICLE 33

Prohibition of Expulsion or Return ("Refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

ARTICLE 34

Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

ARTICLE 35

Co-operation of the National Authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(*a*) the condition of refugees,

(*b*) the implementaton of this Convention, and

(*c*) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE 36

Information on National Legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

ARTICLE 37

Relation to Previous Convention

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII

FINAL CLAUSES

ARTICLE 38

Settlement of Disputes

Any dispute between parties to this Convention relating to its interpretation of application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

ARTICLE 39

Signature, Ratification and Accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It

shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 40

Territorial Application Clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Government of such territories.

ARTICLE 41

Federal Clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(*b*) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of states, provinces or cantons at the earliest possible moment.

(c) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

ARTICLE 42

Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4.16(1), 33, 36–46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

ARTICLE 43

Entry into Force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

ARTICLE 44

Denunciation

1.Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

ARTICLE 45

Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

ARTICLE 46

Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

(*a*) Of declaration and notifications in accordance with section B of article 1;
(*b*) Of signature, ratifications and accessions in accordance with article 39;
(*c*) Of declarations and notifications in accordance with article 40;
(*d*) Of reservations and withdrawals in accordance with article 42;
(*e*) Of the date on which this Convention will come into force in accordance with article 43;
(*f*) Of denunciations and notifications in accordance with article 44;
(*g*) Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

DONE at Geneva, this twenty-eight day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French tests are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

SCHEDULE

Paragraph 1

1. The travel document referred to in article 28 of this convention shall be similar to the specimen annexed hereto.

2. The document shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The document shall have a validity of either one or two years, at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same condidions, a matter for the authority which issued the former document.
2. Diplomatic or consular authorities, specially authorized for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.
3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognize the validity of the documents issued in accordance with the provisions of article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.
2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with article 28 of this Convention shall be readmitted to its territory at any time during the period of its validity.

2. Subject to the provisions of the preceding sub-paragraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorized for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particularly as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

D. REFUGEE ACT OF 1980

(Public Law 96-212, March 17, 1980, 94 Stat. 109)

That this Act may be cited as the "Refugee Act of 1980".

TITLE I—PURPOSE

SEC. 101. (a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible. The objectives of this Act are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted.

TITLE II—ADMISSION OF REFUGEES

SEC. 201. (a) ⟦Omitted; added paragraph (42) to § 101(a); see p. 15.⟧

(b) ⟦Omitted; Added §§ 207, 208 and 209; for current text see pp. 33-37.⟧

(c) ⟦Omitted; conforming amendments to table of contents.⟧

SEC. 202. ⟦Omitted; amended § 211, by adding subsection (c); for current text see p. 53.⟧

SEC. 203. (a) ⟦Omitted; amended § 201(a); for current text see p. 24.⟧

(b) ⟦Omitted; miscellaneous amendments to § 202; including striking paragraph (7) of subsection (e).⟧

(c) ⟦Omitted; miscellaneous amendments to § 203; including striking subsections (f), (g), and (h); for previous text of subsections (g) and (h), see p. 333.⟧

(d) [Omitted; conforming amendments to §§ 212(a)(14), 212(a)(32), and 244(d).]

(e) [Omitted; amended subsection (h) of § 243; for current text see p. 117.]

(f) [Omitted; added subparagraph (B) to § 212(d)(5); for current text see p. 62.]

(g) [Omitted; substituted "September 30, 1980" for "April 1, 1980" in § 5 of Pub. L. 95-412.]

(h) Any reference in any law (other than the Immigration and Nationality Act or this Act) in effect on April 1, 1980, to section 203(a)(7) of the Immigration and Nationality Act shall be deemed to be a reference to such section as in effect before such date and to sections 207 and 208 of the Immigration and Nationality Act.

(i) [Omitted; reduced from 2 years to 1 year time period in § 203(g), § 101(a)(3) of Pub. L. 95-145, and § 1 of Pub. L. 89-732.]

Sec. 204. (a) Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of the enactment of this Act, and shall apply to fiscal years beginning with the fiscal year beginning October 1, 1979.

(b)(1)(A) Section 207(c) of the Immigration and Nationality Act (as added by section 201(b) of this Act) and the amendments made by subsections (b), (c), and (d) of section 203 of this Act shall take effect on April 1, 1980.

(B) The amendments made by section 203(f) shall apply to aliens paroled into the United States on or after the sixtieth day after the date of the enactment of this Act.

(C) The amendments made by section 203(i) shall take effect immediately before April 1, 1980.

(2) Notwithstanding sections 207(a) and 209(b) of the Immigration and Nationality Act (as added by section 201(b) of this Act), the fifty thousand and five thousand numerical limitations specified in such respective sections shall, for fiscal year 1980, be equal to 25,000 and 2,500, respectively.

(3) Notwithstanding any other provisions of law, for fiscal year 1980—

(A) the fiscal year numerical limitation specified in section 201(a) of the Immigration and Nationality Act shall be equal to 280,000, and

(B) for the purpose of determining the number of immigrant visas and adjustments of status which may be made available under sections 203(a)(2) and 202(c)(2) of such Act, the granting of a conditional entry or adjustment of status under section 203(a)(7) or 202(e)(7) of such Act after Septemeber 30, 1979, and before April 1, 1980, shall be considered to be the granting of an immigrant visa under section 203(a)(2) or 202(e)(2), respectively, of such Act during such period.

(c)(1) The repeal of subsection (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412.

(2) An alien who, before April 1, 1980, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date), shall be deemed to be entitled to refugee status under section 207 of such Act (as added by section 201(b) of this title) and shall be accorded the date of registration previously established by that alien. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provisions of section 212(a) of such Act (other than paragraph (27), (29), or (33) and other than so much of paragraph (23) as related to trafficking in narcotics with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

(d)(1) Notwithstanding section 207(a) of the Immigration and Nationality Act (as added by section 201(b) of this title), the President may make the determination described in the first sentence of such section not later than forty-five days after the date of the enactment of this Act for fiscal year 1980.

(2) The Attorney General shall establish the asylum procedure referred to in section 208(a) of the Immigration and Nationality Act (as added by section 201(b) of this title) not later than June 1, 1980.

(e) Any reference in this Act or in chapter 2 of title IV of the Immigration and Nationality Act to the Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services shall be deemed, before the effective date of the Department of Education Organization Act, to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively.

TITLE III—UNITED STATES COORDINATOR FOR REFUGEE AFFAIRS AND ASSISTANCE FOR EFFECTIVE RESETTLEMENT OF REFUGEES IN THE UNITED STATES

Part A—United States Coordinator for Refugee Affairs

Sec. 301. [8 U.S.C. 1525] (a) The President shall appoint, by and with the advice and consent of the Senate, a United States Coordinator for Refugee Affairs (hereinafter in this part referred to as the "Coordinator"). The Coordinator shall have the rank of Ambassador-at-Large.

(b) The Coordinator shall be responsible to the President for—

(1) the development of overall United States refugee admission and resettlement policy;

(2) the coordination of all United States domestic and international refugee admission and resettlement programs in a manner that assures that policy objectives are met in a timely fashion;

(3) the design of an overall budget strategy to provide individual agencies with policy guidance on refugee matters in the preparation of their budget requests, and to provide the Office of Management and Budget with an overview of all refugee-related budget requests;

(4) the presentation to the Congress of the Administration's overall refugee policy and the relationship of individual agency refugee budgets to that overall policy;

(5) advising the President, Secretary of State, Attorney General, and the Secretary of Health and Human Services on the relationship of overall United States refugee policy to the admission of refugees to, and the resettlement of refugees in, the United States;

(6) under the direction of the Secretary of State, representation and negotiation on behalf of the United States with foreign governments and international organizations in discussions on refugee matters and, when appropriate, submitting refugee issues for inclusion in other international negotiations;

(7) development of an effective and responsive liaison between the Federal Government and voluntary organizations, Governors and mayors, and others involved in refugee relief and resettlement work to reflect overall United States Government policy;

(8) making recommendations to the President and to the Congress with respect to policies for, objectives of, and establishment of priorities for, Federal functions relating to refugee admission and resettlement in the United States; and

(9) reviewing the regulations, guidelines, requirements, criteria, and procedures of Federal departments and agencies applicable to the performance of functions relating to refugee admission and resettlement in the United States.

(c)(1) In the conduct of the Coordinator's duties, the Coordinator shall consult regularly with States, localities, and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees.

(2) The Secretary of Labor and the Secretary of Education shall provide the Coordinator with regular reports describing the efforts of their respective departments to increase refugee access to programs within their jurisdiction, and the Coordinator shall include information on each programs in reports submitted under section 413(a)(1) of the Immigration and Nationality Act.

Part B—Assistance for Effective Resettlement of Refugees in the United States

Sec. 311. (a) [Omitted; added chapter 2 to title IV; for current text see pp. 227–239.]

Sec. 312. (a) [Omitted; conforming amendments to table of contents.]

(b) [Omitted; miscellaneous amendments to §2 of the Migration and Refugee Assistance Act of 1962; for current text see pp. 295–296]

(c) [Omitted; repealed the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L. 94–23).]

SEC. 313. (a) Except as otherwise provided in this section, the amendment made by this part shall apply to fiscal years beginning on or after October 1, 1979.

(b) Subject to subsection (c), the limitations contained in sections 412(d)(2)(A) and 412(c)(1) of the Immigration and Nationality Act on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before April 1, 1981.

(c) Notwithstanding section 412(e)(1) of the Immigration and Nationality Act and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized—

(1) to provide reimbursement—

(A) in fiscal year 1980, for 75 percent,

(B) in fiscal year 1981, for 60 percent,

(C) in fiscal year 1982, for 45 percent, and

(D) in fiscal year 1983, for 25 percent,

of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2)) to such refugees, and

(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act.

(d) The requirements of section 412(a)(6)(A) of the Immigration and Nationality Act shall apply to asssistance furnished under chapter 2 of title IV of such Act after October 1, 1980, or such earlier date as the Director of the Office of Refugee Resettlement may establish.

TITLE IV—SOCIAL SERVICES FOR CERTAIN APPLICANTS FOR ASYLUM

SEC. 401. (a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act to reimburse State and local public agencies for expenses which those agencies incurred, at any time, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 (as in effect prior to the enactment of this Act) or under any other Federal law.

(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an "employment authorized" endorsement or other appropriate work permit.

(c) This section applies with respect to any alien in the United States (1) who has applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not be entered.

E. REFUGEE EDUCATION ASSISTANCE ACT OF 1980

(Public Law 96-422, October 10, 1980, as amended; 8 U.S.C. 1522 note)

TITLE I—GENERAL PROVISIONS

DEFINITIONS

SEC. 101. As used in this Act—

(1) The terms "elementary school", "local educational agency", "secondary school", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(2) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(3) The term "eligible participant" [*] means any alien who—

(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act;

(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d)(5) of such Act;

(C) is an applicant for asylum, or has been granted asylum, in the United States; or

(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 36-month beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the month in which the alien applied for asylum (in the case of an alien described in subparagraph (c)).

(4) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

Sec. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

Sec. 103. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the amount authorized to be appropriated under section 201 for that period;

(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent

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[*] § 543(a)(2) of Pub. L. 97-35 (95 Stat. 459) provides as follows:

(2) For purposes of the Refugee Education Assistance Act of 1980, an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status.

limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

SEC. 104. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except that the total of such payments for any period shall not exceed 2 percent of the amount which that State educational agency receives for that period under this Act.

WITHHOLDING

SEC. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

CONSULTATION WITH OTHER AGENCIES

SEC. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.

TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

STATE ENTITLEMENTS

SEC. 201. (a) The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act, the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for ex-

penditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

SEC. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;

(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing; and

(5) provide for making such reports as the Secretary may reasonably require to carry out this title.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

SEC. 203. (a) The Secretary shall pay to each state educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of —

(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made,

multiplied by—

(2) $400.

TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN ATTENDANCE

STATE ENTITLEMENTS

SEC. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1981, and for each subsequent fiscal year; for the purpose set forth in section 302.

(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) $700;

(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) $500; and

(C) the prooduct of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) $300.

(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of eligible participants who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

(A) at least 500; or

(B) at least 5 percent of the total number of students enrolled in such public schools during such fiscal year;

whichever number is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of section 3(b) and section 3(c)(2)(B) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

(3) The amount of the grant to which a State educational agency otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of eligible participants, except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965.

(4) For the purpose of this subsection , the term "State" does not include Guam, American Samoa, the Virgin Islands , the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to eligible participants who meet the requirements of section 101(4).

(c) Determinations by the Secretary under this title for any period with respect to the number of Cuban and Haitian refugee children and Indochinese refugee children and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's payment (as determined under subsection (B)) for such year, but shall remain available until the end of the succeeding fiscal year.

USES OF FUNDS

SEC. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

(b) Financial aassistance provided under this title shall be available to meet the costs of providing eligible participants supplementary educational services, included but not limited to—

(1) supplementary educational services necessary to enable those chidren to achieve a satisfactory level of performance, including —

(A) English language instruction;

(B) other bilingual educational services; and

(C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of eligible participants, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

APPLICATIONS

SEC. 303. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the secretary may reasonably require. Each such application shall—

(1) provide that the educational programs, services and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide assurances that payments under this title will be used for purposes set forth in section 302;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301, subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational or education-related, services or activities within the State because of a significant concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from

such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;

(6) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

(7) provided assurances—

(A) that to the extent consistent with the number of eligible participants enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 304. (a) The Secretary shall pay to each State educational agency having an application approved under section 303 the amount which that State is entitled to receive under this title.

(b) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this Act.

TITLE IV—ADULT EDUCATION PROGRAMS

STATE ENTITLEMENTS

SEC. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for the fiscal year 1982, and for each subsequent fiscal year for the purposes of providing for the operation of adult education programs as described under section 402 for eligible participants aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of eligible participants aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies; multiplied by—

(B) $300.

(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent

that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

USE OF FUNDS

SEC. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to eligible participants aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhamcement of necessary skills, and for the promotion of literacy among such refugees;

(2) administrative costs of planning and operating such programs of instruction;

(3) educational support services which meet the need of such adult refugees, including guidance and counseling with regard to educational, career, and employment opportunities; and

(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (12) and (13) of section 306(b) of the Adult Education Act

(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of eligible participants aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

APPLICATIONS

SEC. 403. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

(2) specify the amount of reduction required under section 401(b)(2);

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

(4) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

(b) The Secretary shall approve an applcation which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

SEC. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act. The authorizations provided in section 414 of that Act shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2).

(2) Any reference in chapter III of title I of the Supplemental Appropriations and Rescission Act, 1980, to section 405(c)(2) of the International Security and Development Assistance Act of 1980 or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

(c)(1)(A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

(4) Funds to carry out this subsection may be available until expended.

(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any time after their arrival in the United States, including periods prior to the enactment of this section.

(e) As used in this section, the term "Cuban and Haitian entrants" means—

(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the status of the individual at the time assistance or services are provided; and

(2) any other national of Cuba or Haiti—

(A) who—

(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act;

(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act; or

(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered.

F. Refugee Assistance Extension Act of 1986

(Public Law 99–605, November 6, 1986, 100 Stat. 3449)

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) Short Title.—This Act may be cited as the "Refugee Assistance Extension Act of 1986".

(b) Amendments to Immigration and Nationality Act.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

SEC. 2. TWO-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

[Omitted; amended section 414.]

SEC. 3. PLACEMENT OF OFFICE OF REFUGEE RESETTLEMENT WITHIN THE OFFICE OF SECRETARY OF HEALTH AND HUMAN SERVICES AND CLARIFYING ROLE OF SECRETARY OF EDUCATION.

(a) Provision of Assistance for Refugee Children by Secretary of Education.—Section 412(d)(1) (8 U.S.C. 1522(d)(1)) is amended by striking out "Director" and inserting in lieu thereof "Secretary of Education".

(b) Authorizing Secretary of Education and Attorney General To Issue Regulations.—Section 412(a)(9) (8 U.S.C. 1522(a)(9)) is amended by inserting ", the Secretary of Education, the Attorney General," after "The Secretary".

SEC. 4. POLICIES FOR PLACEMENT OF REFUGEES AND REGULAR CONSULTATION WITH STATE AND LOCAL GOVERNMENTS IN PLACEMENT PROCESS.

[Omitted; amended section 412(a)(2).]

SEC. 5. RECEPTION AND PLACEMENT GRANTS.

(a) Direct GAO Audit of Grants.—[Omitted; added paragraph (6) to § 412(b); see p. 229.]

(b) Requirements Under Grants.—[Omitted; added paragraph (7) to § 412(b); see pp. 229–230.]

(c) Performance Criteria for Grants.—[Omitted; added paragraph (8) to § 412(b); see p. 230.]

(d) Effective Dates of Amendments.—(1) Section 412(b)(7) (other than subparagraphs (B)(i), (C), and (D)) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the 30-day period beginning on the date of the enactment of this Act.

(2) Section 412(b)(7)(D) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section, shall apply to grants and contracts made or renewed after the end of the six-month period beginning on the date of the enactment of this Act.

(3) The criteria required under the amendment made by subsection (c) shall be established not later than 60 days after the date of the enactment of this Act.

(e) Report on Reception and Placement Grants.—(1) Within amounts provided in appropriation acts, the United States Coordinator for Refugee Affairs shall provide for a study on the advisability and feasibility of—

(A) using competitive proposals, cost reimbursement contracts, financial incentives based on performance standards, and other means for providing greater efficiency in awarding grants and contracts for initial reception and placement under section 412(b) of the Immigration and Nationality Act,

(B) modifying the eligibility requirements for agency participation under that section,

(C) permitting refugee mutual assistance associations to participate under that section and to apply for such grants and contracts, and

(D) using financial incentives linked to performance standards in awarding social service grants and contracts for services under section 412(c) of the Immigration and Nationality Act.

(2) The Coordinator shall submit the results of the study to Congress not later than six months after the date of the enactment of this Act.

(f) Additional Authorization of Appropriations for Reception and Placement Services.—(1) In order to insure that sufficient funds are authorized to be appropriated to provide for reception and placement services in fulfillment of the responsibilities required under section 412(b)(7)(D) of the Immigration and Nationality Act (as added by subsection (b)(1) of this section), there are authorized to be appropriated (in addition to the amounts described in paragraph (2)) for fiscal years 1987 and 1988 any such additional sums as may be necessary to fulfill the responsibilities under that section.

(2) The amounts described in this paragraph are—

(A) the amounts authorized to be appropriated to the Department of State for "Migration and Refugee Assistance" for fiscal years 1986 and 1987, which may be used for enhanced reception and placement services under section 412(b) of the Immigration and Nationality Act; and

(B) any other amounts authorized to be appropriated for such services.

SEC. 6. ALLOCATION AND USE OF SOCIAL SERVICE FUNDS.

(a) BASED ON REFUGEE POPULATION.—[Omitted; added subparagraph (B) to § 412(c)(1); see p. 233.]

(b) CLARIFICATION OF USE OF SOCIAL SERVICE FUNDS.—[Omitted; added subparagraph (C) to § 412(c)(1); see p. 233.]

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allocations of funds for fiscal years beginning with fiscal year 1987.

(d) CONFORMING AMENDMENT.—[Omitted.]

SEC. 7. MAINTAINING FUNDING LEVEL OF MATCHING GRANT PROGRAM.

(a) MAINTAINING FUNDING LEVEL.—Subject to the availability of appropriations, the Director of the Office of Refugee Resettlement shall not reduce the maximum average Federal contribution level per refugee in the matching grant program and shall not increase the percentage grantee matching requirement under that program below the level, or above the percentage, in effect under the program for grants in fiscal year 1985.

(b) MATCHING GRANT PROGRAM.—The "matching grant program" referred to in subsection (a) is the voluntary agency program which is known as the matching grant program and is funded under section 412(c) of the Immigration and Nationality Act.

SEC. 8. TARGETED ASSISTANCE PROJECT GRANTS.

(a) SPECIFIC AUTHORIZATION FOR TARGETED ASSISTANCE PROJECT GRANTS.—[Omitted; added paragraph (2) to § 412(c); see pp. 233–234.]

(b) CONFORMING AMENDMENT.—[Omitted.]

SEC. 9. CASH AND MEDICAL ASSISTANCE.

(a) CLARIFICATION OF DISQUALIFICATION FROM CASH ASSISTANCE FOR REFUGEES REFUSING OFFERS OF EMPLOYMENT OR TRAINING.—[Omitted; added subparagraph (C) to § 412(e)(2); see pp. 235–236.]

(b) CONSIDERATION OF RECOMMENDATIONS AND ASSISTANCE OF VOLUNTARY AGENCIES.—[Omitted; added paragraph (8) to § 412(e); see p. 237.]

(c) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall apply to aliens entering the United States as refugees on or after the first day of the first calendar quarter that begins more than 90 days after the date of the enactment of this Act.

SEC. 10. PERMITTING COVERAGE OF CERTAIN DEPENDENT REFUGEES UNDER ALTERNATIVE PROJECTS.

[Omitted; added sentence at the end of § 412(e)(7)(A); see p. 236.]

SEC. 11. REFUGEES COVERED BY ANNUAL REPORT.

[Amended § 413(a)(2)(A).]

SEC. 12. PROHIBITING USE OF BLOCK OR CONSOLIDATED GRANTS.

[Omitted; added subparagraphs (B) and (C) to § 412(a)(4); see p. 229.]

SEC. 13. ASSISTANCE TO STATES AND COUNTIES FOR INCARCERATION OF CERTAIN CUBAN NATIONALS.

[Omitted; added subsections (f) and (g) to § 412; see pp. 237–238.]

G. CUBAN POLITICAL PRISONERS AND IMMIGRANTS AND INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

(titles VII and VIII of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Public Law 100–202, December 22, 1987, 101 Stat. 1329–40)

TITLE VII—CUBAN POLITICAL PRISIONERS AND IMMIGRANTS

SEC. 701. This title may be cited as "Cuban Political Prisioners and Immigrants".

SEC. 702. [1] (a) PROCESSING OF CERTAIN CUBAN POLITICAL PRISONERS AS REFUGEES.—In light of the announcement of the Government of Cuba on November 20, 1987, that it would reimplement immediately the agreement of December 14, 1984, establishing normal migration procedures between the United States and Cuba, on and after the date of the enactment of this Act, consular officer[s] of the Department of State and appropriate officers of the Immigration and Naturalization Service shall, in accordance with the procedures applicable to such cases in other countries, process any application for admission to the United States as a refugee from any Cuban national who was imprisoned for political reasons by the Government of Cuba on or after January 1, 1959, without regard to the duration of such imprisonment, except as may be necessary to reassure the orderly process of available applicants.

(b) PROCESSING OF IMMIGRANT VISA APPLICATIONS OF CUBAN NATIONALS IN THIRD COUNTRIES.—Notwithstanding section 212(f) and section 243(g) of the Immigration and Nationality Act, on and after the date of the enactment of this Act, consular officers of the Department of State shall process immigrant visa applications by nationals of Cuba located in third countries on the same basis as immigrant visa applications by nationals of other countries.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "process" means the acceptance and review of applications and the preparation of necessary documents and the making of appropriate determinations with respect to such applications.

(2) The term "refugee" has the meaning given such term in section 101(a)(42) of the Immigration and Nationality Act.

TITLE VIII—INDOCHINESE REFUGEE RESETTLEMENT AND PROTECTION ACT OF 1987

SEC. 801. This title may be cited as the "Indochinese Refugee Resettlement and Protection Act of 1987".

SEC. 802. (a) [2] FINDINGS.—It is the sense of the Congress that—

(1) the continued occupation of Cambodia by Vietnam and the oppressive conditions within Vietnam, Cambodia, and Laos have led to a steady flight of persons from those countries, and the likelihood for the safe repatriation of the hundreds of thousands of refugees in the region's camps is negligible for the foreseeable future;

(2) the United States has already played a major role in responding to the Indochinese refugee problem by accepting approximately 850,000 Indochinese refugees into the United States since 1975 and has a continued interest in persons who have fled and continue to flee the countries of Cambodia, Laos, and Vietnam;

(3) Hong Kong, Indonesia, Malaysia, Singapore, the Philippines, and Thailand have been the front line countries bearing tremendous burdens caused by the flight of these persons;

(4) all members of the international community bear a share of the responsibility for the deterioration in the refugee first asylum situation in Southeast Asia because of slow and limited procedures, failure to implement effective policies for the region's "long-stayer" populations, failure to monitor adequately refugee protection and screening programs, particularly along the Thai-Cambo-

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[1] This section is virtually identical to, and duplicative of, § 903 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100–204, 101 Stat. 1401, Dec. 22, 1987), shown in Appendix II. D., at p. 284.

[2] For identical, and duplicative, subsection, see § 904(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100–204, Dec. 22, 1987, 101 Stat. 1402), shown in Appendix II. D., at pp. 284–285.

dian and Thai-Laotian borders, and the instability of the Orderly Departure Program (ODP) from Vietnam which has served as the only safe, legal means of departure from Vietnam for refugees, including Amerasians and long-held "re-education camp" prisoners;

(5) the Government of Thailand should be complemented for allowing the United States to process ration card holders in Khao I Dang and potentially qualified immigrants in Site 2 and in Khao I Dang;

(6) given the serious protection problem in Southeast Asian first asylum countries and the need to preserve first asylum in the region, the United States should continue its commitment to an ongoing, generous admission and protection program for Indochinese refugees, including urgently needed educational programs for refugees along the Thai-Cambodian and Thai-Laotian borders, until the underlying causes of refugee flight are addressed and resolved;

(7) the executive branch should seek adequate funding levels to meet United States policy objectives to ensure the well-being of Indochinese refugees in first asylum, and to process 29,500 Indochinese refugees within the overall refugee admissions level of 68,000 as determined by the President; and

(8) the Government of Thailand should be complimented for the progress that has been made in implementing an effective antipiracy program.

(b) [3] RECOMMENDATIONS.—The Congress finds and recommends the following with respect to Indochinese refugees:

(1) The Secretary of State should urge the Government of Thailand to allow full access by highland refugees to the Lao Screening Program, regardless of the method of their arrival or the circumstances of their apprehension, and should intensify its efforts to persuade the Government of Laos to accept the safe return of persons rejected under the Lao Screening Program.

(2) Refugee protection and monitoring activities should be expanded along the Thai-Laotian border in an effort to identify and report on incidents of refugees forcibly repatriated into Laos.

(3) The Secretary of State should urge the Government of Thailand to address immediately the problems of protection associated with the Khmer along the Thai-Cambodian border. The Government of Thailand, along with appropriate international relief agencies, should develop and implement a plan to provide for greater security and protection for the Khmer at the Thai border.

(4) The international community should increase its efforts to assure that Indochinese refugee camps are protected, that refugees have access to a free market at Site 2, and that international observers and relief personnel are present on a 24-hour-a-day basis at Site 2 and any other camp where it is deemed necessary.

(5) The Secretary of State should make every effort to identify each person at Site 2 who may qualify for admission to the United States as an immigrant and for humanitarian parole.

(6) The United Nations High Commissioner for Refugees should be pressed to upgrade staff presence and the level of advocacy to revive the international commitment with regard to the problems facing Indochinese refugees in the region, and to pursue voluntary repatriation possibilities in cases where monitoring is available and the safety of the refugees is assured.

(c) [4] ALLOCATIONS OF REFUGEE ADMISSIONS.—Given the existing connection between ongoing resettlement and the preservation of first asylum, the United States and the United Nations High Commissioner for Refugees should redouble efforts to assure a stable and secure environment for refugees while dialog is pursued on other long-range solutions, it is the sense of the Senate that—

(1) within the worldwide refugee admissions ceiling determined by the President, the President should allocate—

(A) at least 28,000 admissions from East Asia, first-asylum camps,

(B) at least 8,500 admissions for the Orderly Departure Program, for each of the fiscal years 1988, 1989, and 1990; and

(2) within the allocation made by the President for the Orderly Departure Program from Vietnam pursuant to paragraph (1)(B), admissions allocated in a fiscal year under priorities II and III of the program (as defined in the Depart-

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[3] For identical, and duplicative, provision, see § 904(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987, 101 Stat. 1402), shown in Appendix II. D., at p. 285.

[4] For related sense of Congress provision, see paragraphs (1) and (2) of § 904(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987, 101 Stat. 1403), shown in Appendix II. D., at pp. 285-286.

ment of State Bureau for Refugee Programs worldwide processing priorities) and the number of admissions allocated for Amerasians and their immediate family members under priority I, should be generous.

(d) [5] INTERNATIONAL SOLUTIONS TO REFUGEE PROBLEMS.It is the sense of the Congress that—

(1) renewed international efforts must be taken to address the problem of Indochinese refugees who have lived in camps for 3 years or longer; and

(2) the Secretary of State should urge the United Nations High Commissioner for Refugees to organize immediately an international conference to address the problems of Indochinese refugees.

SEC 803. [6] REPORTING REQUIREMENT.—The President shall submit a report to Congress within 180 days after the date of the enactment of this Act on the respective roles of the Immigration and Naturalization Service and the Department of State in the refugee program with recommendations for improving the effectiveness and efficiency of the program.

SEC 804. [7] FINDINGS AND DECLARATIONS.—The Congress makes the following findings and declarations:

(a) Thousands of children in the Socialist Republic of Vietnam were fathered by American civilians and military personnel.

(b) It has been reported that many of these Amerasian children are ineligible for ration cards and often beg in the streets, peddle black market wares, or prostitute themselves.

(c) The mothers of Amerasian children in Vietnam are not eligible for government jobs or employment in government enterprises and many are estranged from their families and are destitute.

(d) Amerasian children and their families have undisputed ties to the United States and are of particular humanitarian concern to the United States.

(e) The United States has a longstanding and very strong commitment to receive the Amerasian children in Vietnam, if they desire to come to the United States.

H. HOUSE CONCURRENT RESOLUTION 303 (100TH CONGRESS)

(adopted by House of Representatives on October 1, 1988, adopted by Senate on October 1, 1988)

HOUSE CONCURRENT RESOLUTION

Commending humanitarian treatment of Southeast Asian refugees and urging futher measures to ensure humanitarian treatment of refugees.

Whereas the Government of Thailand, the Government of Malaysia, the Government of Hong Kong, the Government of the Philippines, and the Government of Indonesia have long histories of humanitarian treatment of refugees, which has saved thousands of lives over the past 12 years;

Whereas in late January 1988, the Government of Thailand initiated a policy of interdiction, refusing to allow boats with refugees to enter the territorial waters of Thailand and turning the boats back to sea;

Whereas the Government of Malaysia has announced plans to shut down, in April 1989, the Pulau-Bidong camp with 12,629 asylum-seekers;

Whereas the continuation of the policy of interdiction in Thailand and the announced plans to close the Pulau-Bidong camp in Malaysia could result in severe hardship and weaken the concept of first asylum;

Whereas the Government of Thailand, the Government of Hong Kong, the Government of Malaysia, the Government of the Philippines, and the Government of Indonesia have difficult national and international security concerns that they must consider;

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[5] For virtually identical, and duplicative provision, see paragraphs (3) and (4) of § 904(c) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987, 101 Stat. 1403), shown in Appendix II. D., at p. 286.

[6] For substantively identical, and duplicative, subsection, see § 904(d) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987, 101 Stat. 1403), shown in Appendix II. D., at p. 286.

[7] For substantively identical, and duplicative, provision, see paragraphs (1) through (5) of § 905(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204, Dec. 22, 1987, 101 Stat. 1404), shown in Appendix II. D., at p. 286.

Whereas the emigration and resettlement programs of many Western countries have become increasingly difficult to maintain in the past several years;

Whereas the President, the Department of State, and the relevant senior interagency group have recognized the current refugee problem and have taken measures to rectify it; and

Whereas the continued movement of refugees out of Southeast Asia is a direct result of the policies and actions of the governments of countries in Indochina, which include the illegal occupation of Cambodia by the Government of Vietnam: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) commends the Government of Thailand, the Government of Hong Kong, the Government of Malaysia, the Government of the Philippines, and the Government of Indonesia for their history of humanitarian treatment of refugees;

(2) urges the Government of Thailand to reinstitute its humane and generous former policy of first asylum, officially end its policy of interdiction of arriving refugee boats, and take the appropriate steps at the local level to ensure that the policy of first asylum is implemented;

(3) urges the United States and other Western nations to maintain their generous policy of resettlement to alleviate the burdens of countries in the region;

(4) urges the Government of Hong Kong and the governments of the member countries of the Association of Southeast Asian Nations (ASEAN) to maintain their generous policies of first asylum;

(5) commends the Government of Hong Kong for agreeing to set up a screening process to identify internationally acceptable refugees jointly with the United Nations High Commission for Refugees;

(6) commends the President for his decision in fiscal year 1988 to increase the overall number of refugees to be admitted to the United States, in the face of an increase in refugees emigrating from the Soviet Union, rather than decrease the number of refugees from Southeast Asia;

(7) commends the President for proposing for fiscal year 1989 a generous admission policy which reflects the special issues involved in refugee policy in Southeast Asia, including the need for a much expanded Orderly Departure Program for refugees wishing to depart from Vietnam and a renewed effort on the part of the United States to alleviate the strain presently felt by first asylum nations in the region;

(8) urges the Department of State to continue working with the governments of the member countries of the Association of Southeast Asian Nations, the Government of Hong Kong, the Government of Australia, the Government of New Zealand, the Government of Canada, and other governments to find ways to meet the security concerns of the governments of the region while responding to the humanitarian needs of Southeast Asian refugees seeking first asylum and resettlement;

(9) urges the President and the Department of State to make every effort to admit the full number of Southeast Asian refugees that is fixed, in consultation with the Congress, each year;

(10) urges the Government of Vietnam to issue exit permits to Vietnamese individuals who have letters of introduction from the United States or are former reeducation camp members and to expand the Orderly Departure Program to stem the massive movement of refugees out of Vietnam;

(11) urges the Government of Vietnam to cease immediately its occupation of Cambodia;

(12) urges the governments of countries of Indochina to cease their policies of economic, political, and social repression against their people, which cause the continued movement of refugees out of those countries; and

(13) urges the United States to participate actively with the United Nations High Commissioner for Refugees and the governments of the member countries of the Association of Southeast Asian Nations in preparations for the convening of a new international conference on Indochinese refugees which seeks to adopt a comprehensive program of action to deal with the Vietnamese boat people problem in all its aspects, taking into account the concerns of all interested parties.

IV. CURRENT OR RECENT ALIEN ADJUSTMENT PROVISIONS

A. CUBAN ADJUSTMENT

(Public Law 89-732, November 2, 1966, as Amended)

That, notwithstanding the provisions of section 245(c) of the Immigration and Nationality Act the status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. Upon approval of such an application for adjustment of status, the Attorney General shall create a record of the alien's admission for permanent residence as of a date thirty months prior to the filing of such an application or the date of his last arrival into the United States, whichever date is later. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

SEC. 2. In the case of any alien described in section 1 of this Act who, prior to the effective date thereof, has been lawfully admitted into the United States for permanent residence, the Attorney General shall, upon application, record his admission for permanent residence as of the date the alien originally arrived in the United States as a nonimmigrant or as a parolee, or a date thirty months prior to the date of enactment of this Act, whichever date is later.

[Section 3 amended § 13 of Pub. L. 89-236 (8 U.S.C. 1255(c)); omitted as executed.]

SEC. 4. Except as otherwise specifically provided in this Act, the definitions contained in section 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this Act. Nothing contained in this Act shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigation nationality, or naturalization.

SEC. 5. The approval of an application for adjustment of status to that of lawful permanent resident of the United States pursuant to the provisions of section 1 of this Act shall not require the Secretary of State to reduce the number of visas authorized to be issued in any class in the case of any alien who is physically present in the United States on or before the effective date of the Immigration and Nationality Act Amendments of 1976.

B. INDOCHINA REFUGEE ADJUSTMENT

(Title I of Public Law 95-145, October 28, 1977)

TITLE I—ADJUSTMENT OF STATUS OF INDOCHINA REFUGEES

SEC. 101. That (a) the status of any alien described in subsection (b) of this section may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien makes an application for such adjustment [by October 28, 1983] within six years after the date of enactment of this title;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds for exclusion specified in paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) of the Immigration and Nationality Act; and

(3) the alien had been physically present in the United States for at least one year.

(b) The benefits provided by subsection (a) shall apply to any alien who is a native or citizen of Vietnam, Laos, or Cambodia and who—

(1) was paroled into the United States as a refugee from those countries under section 212(d)(5) of the Immigration and Nationality Act subsequent to March 31, 1975, but prior to January 1, 1979; or

(2) was inspected and admitted or paroled into the United States on or before March 31, 1975, and was physically present in the United States on March 31, 1975.

Sec. 102. Upon approval of an application for adjustment of status under section 101 of this title, the Attorney General shall establish a record of the alien's admission for permanent residence as of March 31, 1975, or the date of the alien's arrival in the United States, whichever date is later.

Sec. 103. Any alien determined to be eligible for lawful admission for permanent residence under this title who acquired that status under the provisions of the Immigration and Nationality Act prior to [October 28, 1977] the date of enactment of this title may, upon application, have his admission for permanent residence recorded as of March 31, 1975, or the date of his arrival in the United States, whichever date is later.

Sec. 104. When an alien has been granted the status of having been lawfully admitted to the United States for permanent residence pursuant to this title, his spouse and children, regardless of nationality, may also be granted such status by the Attorney General, in his discretion and under such regulations he may prescribe, if they meet the requirements specified in section 101(a) of this title. Upon approval of the application, the Attorney General shall create a record of the alien's admission for permanent residence as of the date of the record of admission of the alien through whom such spouse and children derive benefits under this section.

Sec. 105. Any alien who ordered, assisted, or otherwise participated in the persecution of any person because of race, religion, or political opinion shall be ineligible for permanent residence under any provision of this title.

Sec. 106. When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to the provisions of this title the Secretary of State shall not be required to reduce the number of visas authorized to be issued under the Immigration and Nationality Act, and the Attorney General shall not be required to charge the alien any fee.

Sec. 107. Except as otherwise specifically provided in this title, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this title. Nothing contained in this title shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Immigration and Nationality Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this title shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

C. Conditional Entrants Adjustment

(Former §§ 203(a)(7), 203(g), and 203(h))

Section 203(a)(7) of the Immigration and Nationality Act, before April 1, 1980, provided for conditional entry as follows:

(7) Conditional entries shall next be made available by the Attorney General, pursuant to such regulations as he may prescribe and in a number not to exceed 6 per centum of the number specified in section 201(a), to aliens who satisfy an Immigration and Naturalization Service officer at an examination in any non-Communist or non-Communist-dominated country, (A) that (i) because of persecution or fear of persecution on account of race, religion, or political opinion they have fled (I) from any Communist or Communist-dominated country or area, or (II) from any country

within the general area of the Middle East, and (ii) are unable or unwilling to return to such country or area on account of race, religion, or political opinion, and (iii) are not nationals of the countries or areas in which their application for conditional entry is made; or (B) that they are persons uprooted by catastrophic natural calamity as defined by the President who are unable to return to their usual place of abode. For the purpose of the foregoing the term "general area of the Middle East" means the area between and including (1) Libya on the west, (2) Turkey on the north. (3) Pakistan on the east, and (4) Saudi Arabia and Ethopia on the south: *Provided,* That immigrant visas in a number not exceeding one-half the number specified in this paragraph may be made available, in lieu of conditional entries of a like number, to such aliens who have been continuously physically present in the United States for a period of at least two years prior to application for adjustment of status.

Sections 203 (g) and (h) of the Immigration and Nationality, which were repealed by section 203(c)(8) of the Refugee Act of 1980 (Pub. L. 96–212, Mar. 17, 1980, 94 Stat. 107), effective Apr. 1, 1980, provided as follows, for the adjustment of status of conditional entrants under former section 203(a)(7) of the Act (shown above):

(g) Any alien who conditionally entered the United States as a refugee, pursuant to subsection (a)(7) of this section, whose conditional entry has not been terminated by the Attorney General pursuant of such regulations as he may prescribe, who has been in the United States for at least one year, and who has not acquired permanent residence, shall forthwith return or be returned to the custody of the Immigration and Naturalization Service and shall thereupon be inspected and examined for admission into the United States, and his case dealt with in accordance with the provisions of sections 235, 236, and 237 of this Act.

(h) Any alien who, pursuant to subsection (g) of this section, is found, upon inspection by the immigration officer or after hearing before a special inquiry officer, to be admissible as an immigrant under this Act at the time of his inspection and examination, except for the fact that he was not and is not in possession of the documents required by section 212(a)(20), shall be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.

Section 5 of Pub. L. 95–412 (Oct. 5, 1978, 92 Stat. 909), as amended, provides as follows:

SEC. 5. Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212(d)(5) of the Immigration and Nationality Act before April 1, 1980, shall have his status adjusted pursuant to the provisions of section 203(g) and (h) of the Act.

Section 204(c)(1) of the Refugee Act of 1980 provides:

(c)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 203(c)(8) of this title, shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act (and under section 202(e)(7) of such Act, if applicable), as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95–412.

Section 204(c)(3) of that Act, shown in footnote 46, p. 54, provided for waiver of certain exclusionary standards for adjustment of status of refugees.

D. VIRGIN ISLANDS NONIMMIGRANT ALIEN ADJUSTMENT ACT OF 1982

(Public Law 97–271, Sept. 30, 1982; 8 U.S.C. 1255 note)

SHORT TITLE AND FINDINGS

SECTION 1. (a) This Act may be cited as the "Virgin Islands Nonimmigrant Alien Adjustment Act of 1982".

(b) Congress finds—

(1) that in order to eliminate the uncertainty and insecurity of aliens who—

(A) legally entered the Virgin Islands of the United States as nonimmigrants for employment under the temporary alien labor program,

(B) have continued to reside in the Virgin Islands for long periods (some for as long as twenty years), and

(C) have contributed to the economic, social, and cultural development of the Virgin Islands and have become an integral part of the society of the Virgin Islands,

it is necessary and equitable to provide for the orderly adjustment of their immigration status to that of permanent resident aliens; and

(2) because—

(A) the Congress has special responsibility and authority with respect to the territories and the establishment of immigration policy, and

(B)(i) the Virgin Islands is a small and densely populated insular territory with limited resouces,

(ii) most of the aliens eligible for benefits under section 2 of this Act are natives of islands in the Caribbean and have relatives residing in such islands, and such relatives, if they were permitted to immigrate to the United States, are likely to settle in the Virgin Islands, and

(iii) the admission of a significant number of these relatives would have a severe and detrimental impact on the limited health, education, housing, and other services available in the Virgin Islands,

there is a necessary and compelling need to prevent a secondary migration of a significant number of such relatives to the Virgin Islands.

ADJUSTMENT OF IMMIGRATION STATUS

SEC. 2. (a) The status of any alien described in subsection (b) may be adjusted by the Attorney General, in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien—

(1) makes application for such adjustment during the one-year period beginning on the date of the enactment of this Act,

(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except for the grounds of exclusion specified in paragraphs (14), (20), (21), (25), and (32), of section 212(a) of the Immigration and Nationality Act (hereinafter in this Act referred to as "the Act"), and

(3) is physically present in the Virgin Islands of the United States at the time of filing such application for adjustment.

If such an alien has filed such an application and is or becomes deportable for failure to maintain nonimmigrant status, the Attorney General shall defer the deportation of the alien until final action is taken on the alien's application for adjustment.

(b) The benefits provided by subsection (a) apply to any alien who—

(1) was inspected and admitted to the Virgin Islands of the United States either as a nonimmigrant alien worker under section 101(a)(15)(H)(ii) of the Act or as a spouse or minor child of such worker, and

(2) has resided continuously in the Virgin Islands of the United States since June 30, 1975.

(c)(1) The numerical limitations described in sections 201(a) and 202 of the Act shall not apply to an alien's adjustment of status under this section. Such adjustment of status shall not result in any reduction in the number of aliens who may acquire the status of an alien lawfully admitted to the United States for permanent residence under the Act.

(2) The Secretary of State, in his discretion and after consultation with the Secretary of the Interior and the Governor of the Virgin Islands of the United States, may limit the number of immigrant visas that may be issued in any fiscal year to aliens with respect to whom second preference petitions (filed by aliens who have had their status so adjusted) are approved.

(3) Notwithstanding any other provision of law, no alien shall be eligible to receive an immigrant visa (or to otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence)—

(A) by virtue of a fourth or fifth preference petition filed by an individual who had his status adjusted under this section unless the individual establishes to the satisfaction of the Attorney General that exceptional and extremely unusual hardship exists for permitting the alien to receive such visa (or otherwise acquire such status); or

(B) by virture of a second preference petition filed by an individual who was admitted to the United States as an immigrant by virtue of an immediate relative petition filed by the son or daughter of the individual, if that son or daughter had his or her status adjusted under this section.

(4) For purposes of this subsection, the terms "second preference petition", "fourth preference petition", "fifth preference petition", and "immediate relative petition" mean, in the case of an alien, a petition filed under section 204(a) of the Act to grant preference status to the alien by reason of the relationship described in section 203(a)(2), 203(a)(4), 203(a)(5), or 201(b), respectively, of the Act.

(d) Except as otherwise specifically provided in this section, the definitions contained in the Act shall apply in the administration of this section. Nothing contained in this Act shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of the Act or any other law relating to immigration, nationality, and naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude him from seeking such status under any other provision of law for which he may be eligible.

TERMINATION OF TEMPORARY WORKER PROGRAM IN THE VIRGIN ISLANDS

SEC. 3. Notwithstanding any other provision of law, on and after the date of the enactment of this Act the Attorney General shall not approve any petition filed under section 214(c) of the Act in the case of importing any alien as a nonimmigrant under section 101(a)(15)(H)(ii) of such Act for employment in the Virgin Islands of the United States other than for employment as an entertainer or as an athlete and for a period not exceeding forty-five days.

IMPACT ASSESSMENT AND REPORT

SEC. 4. The Secretaries of Health and Human Services, Education, Housing and Urban Development, Labor, and the Interior, and the Attorney General, in consultation with officials of the Government of the Virgin Islands of the United States and within such amounts as may otherwise be available through appropriations, shall jointly assess the impact on the Government of the Virgin Islands of providing health, education, housing, and other social services to individuals whose status is adjusted under section 2 of this Act (and to relatives of such individuals who enter the Virgin Islands as a result of such adjustment) and the need for assistance to the Government of the Virgin Islands to assist it in meeting the needs of these individuals and relatives. They shall, within one year after the date of the enactment of this Act, report to the President and the Congress on the results of their assessment and on any recommendations for changes in legislation which may be appropriate.

E. Cuban/Haitian Adjustment

(§ 202 of the Immigration Reform and Control Act of 1986, Public Law 99-603, as amended by § 2(i) of the Immigration Technical Corrections Amendments of 1988 (Pub. L. 100–525))

SEC. 202. CUBAN-HAITIAN ADJUSTMENT.

(a) ADJUSTMENT OF STATUS.—The status of any alien described in subsection (b) may be adjusted by the Attorney General, in the Attorney General's discretion and under such regulations as the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

(1) the alien applies for such adjustment within two years after the date of the enactment of this Act;

(2) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (14), (15), (16), (17), (20), (21), (25), and (32) of section 212(a) of the Immigration and

Nationality Act shall not apply and the Attorney General may, in his discretion, waive the ground for exclusion specified in paragraph (19) of such section;

(3) the alien is not an alien described in section 243(h)(2) of such Act;

(4) the alien is physically present in the United States on the date the application for such adjustment is filed; and

(5) the alien has continuously resided in the United States since January 1, 1982.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien—

(1) who has received an immigration designation as a Cuban/Haitian Entrant (Status Pending) as of the date of the enactment of this Act, or

(2) who is a national of Cuba or Haiti, who arrived in the United States before January 1, 1982, with respect to whom any record was established by the Immigration and Naturalization Service before January 1, 1982, and who (unless the alien filed an application for asylum with the Immigration and Naturalization Service before January 1, 1982) was not admitted to the United States as a nonimmigrant.

(c) NO AFFECT ON FASCELL-STONE BENEFITS.—An alien who, as of the date of the enactment of this Act, is a Cuban and Haitian entrant for the purpose of section 501 of Public Law 96-422 shall continue to be considered such an entrant for such purpose without regard to any adjustment of status effected under this section.

(d) RECORD OF PERMANENT RESIDENCE AS OF JANUARY 1, 1982.—Upon approval of an alien's application for adjustment of status under subsection (a), the Attorney General shall establish a record of the alien's admission for permanent residence as of January 1, 1982.

(e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—When an alien is granted the status of having been lawfully admitted for permanent residence pursuant to this section, the Secretary of State shall not be required to reduce the number of immigrant visas authorized to be issued under the Immigration and Nationality Act and the Attorney General shall not be required to charge the alien any fee.

(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

F. EVD ADJUSTMENT OF STATUS

(Title IX of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1988, as contained in § 101(a) of Public Law 100-202, 101 Stat. 1329-43, December 22, 1987)*

TITLE IX—ADJUSTMENT TO LAWFUL RESIDENT STATUS OF CERTAIN NATIONALS OF COUNTRIES FOR WHICH EXTENDED VOLUNTARY DEPARTURE HAS BEEN MADE AVAILABLE

SEC. 901. This title may be cited as "Adjustment to Lawful Resident Status of Certain Nationals of Countries for Which Extended Voluntary Departure Has Been Made Available".

SEC. 902 (a) ADJUSTMENT OF STATUS.—The status of any alien who is a national of a foreign country the nationals of which were provided (or allowed to continue in) "extended voluntary departure" by the Attorney General on the basis of a nationality group determination at any time during the 5-year period ending on November

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* For identical, duplicative provision, see § 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Pub. L. 100-204), shown in Appendix II. D., at pp. 283-284.

1, 1987, shall be adjusted by the Attorney General to that of an alien lawfully admitted for temporary residence if the alien—

(1) applies for such adjustment within two years after the date of the enactment of this Act;

(2) establishes that (A) the alien entered the United States before July 21, 1984, and (B) has resided continuously in the United States since such date and through the date of the enactment of this Act;

(3) establishes continuous physical presence in the United States (other than brief, casual, and innocent absences) since the date of the enactment of this Act;

(4) in the case of an alien who entered the United States as a nonimmigrant before July 21, 1984, establishes that (A) the alien's period of authorized stay as a nonimmigrant expired not later than six months after such date through the passage of time or (B) the alien applied for asylum before July 21, 1984; and

(5) meets the requirements of section 245A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(4)).

The Attorney General shall provide for the acceptance and processing of applications under this subsection by not later than 90 days after the date of the enactment of this Act.

(b) Status and Adjustment of Status.—The provisions of subsections (b), (c)(6), (d), (f), (g), (h), and (i) of section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) shall apply to aliens provided temporary residence under subsection (a) in the same manner as they apply to aliens provided lawful temporary residence status under section 245A(a) of such Act.

V. EXCERPTS FROM LAWS RELATING TO COMMONWEALTHS AND FORMER TERRITORIES

A. Commonwealth of the Northern Mariana Islands

1. Public Law 94-241 (March 24, 1976): Approving Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America

[Note.—On October 24, 1986, the United States informed the United Nations that November 3, 1986, is the date this Covenant will enter fully into force under Pub. L. 94-241.]

Article III

CITIZENSHIP AND NATIONALITY

Section 301. The following persons and their children under the age of 18 years on the effective date of this Section, who are not citizens or nationals fo the United States under any other provisions of law, and who on that date do not owe allegiance to any foreign state, are declared to be citizens of the United States, except as otherwise provided in Section 302:

(a) all persons born in the Northern Mariana Islands who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, and who on that date are domiciled in the Northern Mariana Islands or in the United States or any territory or possession thereof;

(b) all persons who are citizens of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Section, who have been domiciled continuously in the Northern Mariana Islands for at least five years immediately prior to that date, and who, unless under age, registered to vote in elections for the Marianas Islands District Legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975; and

(c) all persons domiciled in the Northern Mariana Islands on the day preceding the effective date of this Section, who, although not citizens of the Trust Territory of the Pacific Islands on that date have been domiciled continously in the Northern Mariana Island beginning prior to January 1, 1974.

Section 302. Any person who becomes a citizen of the United States solely by virtue of the provisions of Section 301 may within six months after the effective date of that Section or within six months after reaching the age of 18 years, whichever date is the later, become a national but not a citizen of the United States by making a declaration under oath before any court established by the Constitution or laws of the United States or any court of record in the Commonwealth in the form as follows:

"I———-being duly sworn, hereby declare my intention to be a national but not a citizen of the United States."

Section 303. All persons born in the Commonwealth on or after the effective date of this Section and subject to the jurisdiction of the United States will be citizens of the United States at birth.

Section 304. Citizens of the Northern Mariana Island will be entitled to all privileges and immunities of citizens in the several States of the United States.

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Article V

APPLICABILITY OF LAWS

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Section 502. (a) The following laws of the United States in existence on the effective date of this Section and subsequent amendments to such laws will apply to the Northern Mariana Islands, except as otherwise provided in this Covenant:

(1) those laws which provide federal services and financial assistance programs and the federal banking laws as they apply to Guam; Section 228 of Title II and Title XVI of the Social Security Act as it applies to the several States; the Public Health Service Act as it applies to the Virgin Islands; and the Micronesian Claims Act as it applies to the Trust Territory of the Pacific Islands;

(2) those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States; and

(3) those laws not described in paragraph (1) or (2) which are applicable to the Trust Territory of the Pacific Islands, but not their subsequent amendments unless specifically made applicable to the Northern Mariana Islands, as they apply to the Trust Territory of the Pacific Islands until termination of the Trusteeship Agreement, and will thereafter be inapplicable.

(b) [Omitted.]

Section 503. The following laws of the United States, presently inapplicable to the Trust Territory of the Pacific Islands, will not apply to the Northern Mariana Islands except in the manner and to the extent made applicable to them by the Congress by law after termination of the Trusteship Agreement:

(a) except as otherwise provided in Section 506, the immigration and naturalization laws of the United States;

(b) except as otherwise provided in Subsection (b) of Section 502 the coastwise laws of the United States and any prohibition in the laws of the United States against foreign vessels landing fish or unfinished fish products in the United States; and

(c) the minimum wage provisions of Section 6, Act of June 25, 1938, 52 Stat 1062, as amended.

Section 504. The President will appoint a Commission on Federal Laws to survey the laws of the United States and to make recommendations to the United States Congress as to which laws of the United States not applicable to the Northern Mariana Islands should be made applicable and to what extent and in what manner, and which applicable laws should be made inapplicable and to what extent and in what manner. The Commission will consist of seven persons (at least four of whom will be citizens of the Trust Territory of the Pacific Islands who are and have been for at least five years domiciled continuously in the Northern Mariana Islands at the time of their appointments) who will be representative of the federal, local, private and public interests in the applicability of laws of the United States to the Northern Mariana Islands. The Commission will make its final report and recommendations to the Congress within one year after the termination of the Trusteeship Agreement, and before that time will make such interim reports and recommendations to the Congress as it considers appropriate to facilitate the transition of the Northern Mariana Islands to its new political status. In formulating its recommendations the Commission will take into consideration the potential effect of each law on local conditions within the Northern Mariana Islands, the policies embodied in the law and the provisions and purposes of this Covenant. The United States will bear the cost of the work of the Commission.

[Section 505 omitted.]

Section 506. (a) Notwithstanding the provisions of Subsection 503(a), upon the effective date of this Section the Northern Mariana Islands will be deemed to be a part of the United States under the Immigration and Nationality Act, as amended for the following purposes only, and the said Act will apply to the Northern Mariana Islands to the extent indicated in each of the following Subsections of this Section.

(b) With respect to children born abroad to United States citizen or non-citizen national parents permanently residing in the Northern Mariana Islands the provisions of Sections 301 and 308 of the said Act will apply.

(c) With respect to aliens who are "immediate relatives" (as defined in Subsection 201(b) of the said Act) of United States citizens who are permanently residing in the Northern Mariana Islands all the provisions of the said Act will apply, commencing when a claim is made to entitlement to "immediate relative" status. A person who is certified by the Government of the Northern Mariana Islands both to have been a lawful permanent resident of the Northern Mariana Islands and have had the "immediate relative" relationship denoted herein on the effective date of this Section will be presumed to have been admitted to the United States for lawful permanent residence as of that date without the requirements of any of the usual procedures set forth in the said Act. For the purpose of the requirements of judicial naturalization, the Northern Mariana Islands will be deemed to constitute a State as defined in Subsection 101(a) paragraph (36) of the said Act. The Courts of record of the Northern Mariana Islands and the District Court for the Northern Mariana Islands will be included among the courts specified in Subsection 310(a) of the said Act and will have jurisdiction to naturalize persons who become eligible under this Section and who reside within their respective jurisdictions.

(d) With respect to persons who will become citizens or nationals of the United States under Articles III of this Covenant or under this Section the loss of nationality provisions of the said Act will apply.

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ARTICLE X

APPROVAL, EFFECTIVE DATES, AND DEFINITIONS

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SECTION 1003. The provisions of this Covenant will become effective as follows, unless otherwise specifically provided:

(a) Sections 105, 201–203, 503, 504, 606, 801, 903 and Article X will become effective on approval of this Covenant;

(b) Sections 102, 103, 204, 304, Article IV, Sections 501, 502, 505, 601–605, 607, Article VII, Sections 802–805, 901 and 902 will become effective on a date [January 9, 1978] to be determined and proclaimed by the President of the United States which will be not more than 180 days after this Covenant and the Constitution of the Northern Mariana Islands have both been approved; and

(c) The remainder of this Covenant will become effective upon the termination of the Trusteeship Agreement and the establishment of the Commonwealth of the Northern Mariana Islands. [October 24, 1986].

* * * * * * *

SECTION 1005. As used in this Covenant:

(a) "Trusteeship Agreement" means the Trusteeship Agreement for the former Japanese Mandated Islands concluded between the Security Council of the United Nations and the United States of America, which entered into force on July 18, 1947;

(b) "Northern Mariana Islands" means the area now known as the Mariana Islands District of the Trust Territory of the Pacific Islands, which lies within the area north of 14° north latitude, south of 21° north latitude, west of 150° east longitude and east of 144° east longitude;

(c) Government of the Northern Mariana Islands" includes, as appropriate, the Government of the Mariana Islands District of the Trust Territory of the Pacific Islands at the time this Covenant is signed, its agencies and instrumentalities, and its successors, including the Government of the Commonwealth of the Northern Mariana Islands;

(d) "Territory or possession" with respect to the United States includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa;

(e) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

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2. Sections 19–24 of Public Law 98–213 (December 8, 1983)

SEC. 19. (a) The President may, subject to the provisions of section 20 of this Act, by proclamation provide that the requirement of United States citizenship or nationality provided for in any of the statutes listed on pages 63–74 of the Interim

Report of the Northern Mariana Islands Commission on Federal Laws to the Congress of the United States, dated January 1982 and submitted pursuant to section 504 of the Covenant, shall not be applicable to the citizens of the Northern Mariana Islands. The President is authorized to correct clerical errors in the list, and to add to it provisions, where it appears from the context that they were inadvertently omitted from the list.

(b) A statute which denies a benefit or imposes a burden or a disability on an alien, his dependents, or his survivors shall, for the purposes of this Act, be considered to impose a requirement of United States citizenship or nationality.

SEC. 20. (a) The President may issue one or more proclamations under the authority of this Act.

(b) When issuing such proclamation or proclamations the President—

(1) shall take into account:

(i) the hardship suffered by the citizens of the Northern Mariana Islands resulting from the fact that, while they are subject to most of the laws of the United States, they are denied the benefit of those laws which contain a requirement of United States citizenship or nationality;

(ii) the responsibilities, obligations, and limitations imposed upon the United States by international law;

(2) may make the requirement of United States citizenship or nationality inapplicable only to those citizens of the Northern Mariana Islands who declare in writing that they do not intend to exercise their option under section 302 of the Covenant to become a national but not a citizen of the United States;

(3) may make the requirement of a United States citizenship or nationality inapplicable only in the Northern Mariana Islands;

(4) may retain the requirement of United States citizenship or nationality with respect to parts of a statute or portion thereof.

SEC. 21. If the President does not issue any proclamation authorized by section 19 of this Act within a period of six months following the effective date of the Act, the requirement of United States citizenship or nationality as a prerequisite of any benefit, right, privilege, or immunity in any statute made applicable to the Northern Mariana Islands by the terms of that statute or by operation of the Covenant shall not be applicable to citizens of the Northern Mariana Islands: *Provided*, That the provisions of this section shall not be applicable to any requirements of United States citizenship or nationality contained in statutes relating to the political rights of citizenship, and to the diplomatic protection of, and services to, citizens or nationals of the United States in foreign countries: *Provided further*, That with respect to the statutes relating to the uniformed services, the requirement of United States citizenship or nationality shall remain in effect, except with respect to those citizens of the Northern Mariana Islands who declare in writing that they do not intend to exercise their option under section 302 of the Covenant to become a national but not a citizen of the United States.

SEC. 22. Nothing in this Act shall be construed as extending to the Northern Mariana Islands any statutory provision or regulation not otherwise applicable to or within the Northern Mariana Islands, in particular the statutes relating to immigration and nationality and the regulations issued under them.

SEC. 23. The authority of the President to issue proclamations under section 19 of this Act shall terminate upon the establishment of the Commonwealth of the Northern Mariana Islands pursuant to section 1002 of the Covenant. Section 21 of this Act shall not become effective if the Commonwealth of the Northern Mariana Islands is established within the period of six months following the effective date of this Act.

SEC. 24. As used in this Act:

(a) "Covenant" means the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America, approved by the Joint Resolution of March 24, 1976 (90 Stat. 263, 48 U.S.C. 1681, note).

(b) "Citizen of the Northern Mariana Islands" means a citizen of the Trust Territory of the Pacific Islands and his or her children under the age of eighteen years, who does not owe allegiance to any foreign state, and who—

(1) was born in the Northern Mariana Islands and is physically present in the Northern Mariana Islands or in the United States or any territory or possession thereof; or

(2) has been lawfully and continuously domiciled in the Northern Mariana Islands since January 1, 1974, and, who, unless then under age, was registered to vote in an election for the Mariana Islands legislature or for any municipal election in the Northern Mariana Islands prior to January 1, 1975.

(c) "Domicile" means that place where a person maintains a residence with the intention of continuing such residence for an unlimited or indefinite period, and to which such person has the intention of returning whenever he is absent, even for an extended period.

B. FEDERATED STATES OF MICRONESIA AND THE MARSHALL ISLANDS

(Public Law 99-239, January 14, 1986, Compact of Free Association Act of 1985)

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution, together with the Table of Contents in subsection (b) of this section, may be cited as the "Compact of Free Association Act of 1985".

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TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

SECTION 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Federated States of Micronesia is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) MARSHALL ISLANDS.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Marshall Islands is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(c) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

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(f) EFFECTIVE DATE.—(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to Congress that the agreements described in section 102 and section 103 of this title have been concluded.

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SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

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(b) IMMIGRATION.—The rights of a bona fide naturalized citizen of the Marshall Islands or the Federated States of Micronesia to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

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SEC. 108. TRANSITIONAL IMMIGRATION RULES.

(a) CITIZEN OF NORTHERN MARIANA ISLANDS.—Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983 (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) TERMINATION.—The provisions of this section shall cease to be effective when section 301 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States (Public Law 94-241) becomes effective pursuant to section 1003(c) of the Covenant.

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TITLE II—COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION.

The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

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Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia;

(2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;

(3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or

(4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the

Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences employment with such Government shall not be deprived of his United States nationality pursuant to Section 349 (a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes.

(b) Conduct of the plebiscite referred to in Section 412.

(c) Approval by the Government of the United States in accordance with its constitutional processes.

* * * * * * *

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the Untied States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

* * * * * * *

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of fulltime studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands, or the Federated States of Micronesia for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

C. PALAU

(Public Law 99-658, November 14, 1986): Approving the Compact of Free Association Between the United States and the Government of Palau

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

APPROVAL OF COMPACT OF FREE ASSOCIATION.

SEC. 101. (a) APPROVAL.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of Palau is hereby approved, and Congress hereby consents to the agreements as set forth on pages 154 through 405 of House Document 99-193 of April 9, 1986 (hereafter in this joint resolution referred to as subsidiary or related agreements), as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to the "Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

* * * * * * *

(d) EFFECTIVE DATE.—(1) The authority of the President to agree to an effective date for the Compact of Free Association between the United States and Palau concurrently with termination of the Trusteeship shall be carried out in accordance with this section, and the Compact shall not take effect until after—

(A) The President has certified to the Congress that the Compact has been approved in accordance with Section 411 (a) and (b) of the Compact, and that there exists no legal impediment to the ability of the United States to carry out fully its responsibilities and to exercise its rights under Title Three of the Compact, as set forth in this Act, and

(B) enactment of a joint resolution which has been reported by the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Foreign Affairs and other appropriate Committees of the House of Representatives authorizing entry into force of the Compact, and

(C) agreements have been concluded with Palau which satisfy the requirements of Section 102 of Public Law 99-239. For the purpose of this subsection the word "Palau" shall be substituted for "Federated States of Micronesia" whenever it appears in Section 102 of Public Law 99-239.

* * * * * * *

EXTENSION OF COMPACT OF FREE ASSOCIATION TO PALAU

SEC. 102. (a) The interpretation of and United States Policy Regarding the Compact of Free Association set forth in section 104 of Public Law 99-239 shall apply to the Compact of Free Association with Palau.

(b) The provisions of section 105, except for subsection (i), section 106, section 110, and section 111 (a) and (d) of Public Law 99-239, as amended, shall apply to Palau in the same manner and to the same extent as such sections apply to the Marshall Islands.

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TITLE II—COMPACT OF FREE ASSOCIATION

COMPACT OF FREE ASSOCIATION.

SEC. 201. Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

* * * * * * *

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

(1) a person who, on the day preceding the effective date of this Compact, is a citizen of Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of Palay;

(2) a person who acquires the citizenship of Palau, at birth, on or after the effective date of the Constitution of Palau; or

(3) a naturalized citizen of Palau, who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to nondiscriminatory limitations provided for:

(1) in statutes or regulations of the United States; or

(2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

(c) Section 141(a) does not confer on a citizen of Palau, the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in Palau, subject to the right of that Government to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in Palau only in accordance with the laws of Palau. This subsection is without prejudice to the right of the Government of Palau to regulate occupations in Palau in a nondiscriminatory manner.

(b) With respect to the subject matter of this Section, the Government of Palau shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Section 141 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of Palau.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of Palau or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of Palau, commences employment with that Government shall not be deprived of his United States nationality pursuant to Section 349 (a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of Palau, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of Palau on the effective date of this Compact with respect to the positions held by them at that time.

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TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of Palau, subsequent to completion of the following:

(a) Approval by the Government of Palau in accordance with its constitutional processes;

(b) Approval by the people of Palau in a referendum called on this Compact; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States and the Government of Palau shall confer promptly at the request of the other on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States or the Government of Palau, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of Palau cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an arbitration board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An arbitration board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute and each of the two parties to the dispute shall appoint one member to the arbitration board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the arbitration board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a chairman within 15 days after selection of the other members of the arbitration board. Failing agreement on a chairman, the chairman shall be chosen by lot from the standing lists of the parties to the dispute within 5 days after such failure.

(b) The arbitration board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and VI of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the arbitration board shall have one vote. Each decision of the arbitration board shall be reached by majority vote.

(d) In determining any legal issue, the arbitration board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The arbitration board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the arbitration board shall endeavor to render its decision within 30 days after the conclusion of arguments. The arbitration board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the arbitration board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the Government of Palau.

* * * * * * *

Article VI

Definition of Terms

Section 461

For the purpose of this Compact the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Palau, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "Palau" is used in a geographic sense and includes the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States consistent with the Compact and its related agreements.

(d) "Government of Palau" means the Government established and organized by the Constitution of Palau including all the political subdivisions and entities comprising that Government.

(e) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full time studies as long as such person maintains that status, or who has been physically present in the United States or Palau for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(f) For the purposes of Article IV of Title One of this Compact:

(1) "Actual Residence" means physical presence in Palau during eighty-five percent of the period of residency required by Section 141(a)(3); and

(2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

VI. CHAPTER 15 OF THE UNITED STATES-CANADA FREE-TRADE AGREEMENT

Chapter Fifteen

Temporary Entry for Business Persons

Article 1501: General Principle

The provisions of this Chapter reflect the special trading relationship between the Parties, the desirability of facilitating temporary entry on a reciprocal basis and of establishing transparent criteria and procedures for temporary entry, and the need to ensure border security and protect indigenous labour and permanent employment.

Article 1502: Obligations

1. The Parties shall provide, in accordance with Annex 1502.1, for the temporary entry of business persons who are otherwise qualified for entry under applicable law relating to public health and safety and national security.
2. Each Party shall publish its laws, regulations, and procedures relating to the provisions of this Chapter and provide to the other Party such explanatory materials as may be reasonably necessary to enable the other Party and its business persons to become acquainted with them.
3. Any fees for processing applications for temporary entry of business persons shall be limited in amount to the approximate cost of services related thereto.
4. Data collected and maintained by a Party respecting the granting of temporary entry to business persons under this Chapter shall be made available to the other Party in conformity with applicable law.
5. The application and enforcement of measures governing the granting of temporary entry to business persons shall be accomplished expeditiously so as to avoid unduly impairing or delaying the conduct of trade in goods or services, or of investment activities, under this Agreement.

Article 1503: Consultation

The Parties shall establish a procedure, which shall involve the participation of immigration officials of both Parties, for consultation at least once a year respecting:

a) the implementation of this Chapter; and

b) the development of measures for the purpose of further facilitating temporary entry of business persons on a reciprocal basis and the development of amendments and additions to Annex 1502.1.

Article 1504: Dispute Settlement

1. Subject to paragraph 2, a Party may invoke the provisions of Chapter Eighteen with respect to any matter governed by this Chapter.
2. A Party may not invoke the provisions of Article 1806 or 1807 of this Agreement with respect to the denial of a business person's request for temporary entry or a matter under paragraph 5 of Article 1502 unless:

a) the matter involves a pattern of practice; and

b) available administrative remedies have been exhausted with respect to the particular matter involving a business person's request for temporary entry, provided that such remedies shall be deemed to be exhausted if a final decision in the matter has not been issued within one year of the institution of administrative proceedings and the failure to issue a decision is not attributable to delay caused by the business person.

Article 1505: Relationship to other Chapters

No provision of any other Chapter of this Agreement shall be construed as imposing obligations upon the Parties with respect to the Parties' immigration measures.

Article 1506: Definitions

For purposes of this Chapter,

business person means a citizen of a Party who is engaged in the trade of goods or services or in investment activities; and

temporary entry means entry without the intent to establish permanent residence.

Annex 1502.1

Temporary Entry for Business Persons

United States of America

A. Business Visitors

1. A business person seeking temporary entry into the United States of America for purposes set forth in Schedule 1, who otherwise meets existing requirements under section 101(a)(15)(B) of the Immigration and Nationality Act, including but not limited to requirements regarding the source of remuneration, shall be granted entry upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the occupations or professions set forth in Schedule 1 and describing the purpose of entry.

2. A business person engaged in an occupation or profession other than those listed in Schedule 1 shall be granted temporary entry under section 101(a)(15)(B) of the Immigration and Nationality Act if the business person meets existing requirements for entry.

3. The United States of America shall not require, as a condition for temporary entry under paragraph 1 or 2, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

B. Traders and Investors

4. A business person seeking temporary entry into the United States of America to carry on substantial trade in goods or services, in a capacity that is supervisory or executive or involves essential skills, principally between the United States of America and Canada, or solely to develop and direct the operations of an enterprise in which the business person has invested, or is actively in the process of investing, a substantial amount of capital, shall be granted entry under section 101(a)(15)(E) of the Immigration and Nationality Act, and be provided confirming documentation, if the business person meets existing requirements for visa issuance and for entry.

5. The United States of America shall not require, as a condition for temporary entry under paragraph 4, labour certification tests or other procedures of similar effect.

C. Professionals

6. A business person seeking temporary entry into the United States of America to engage in business activities at a professional level who meets existing requirements under section 214(e) of the Immigration and Nationality Act shall be granted entry, and be provided confirming documentation, upon presentation of proof of Canadian citizenship and documentation demonstrating that the business person is engaged in one of the professions set forth in Schedule 2 and describing the purpose of entry.

7. The United States of America shall not require, as a condition for temporary entry under paragraph 6, prior approval procedures, petitions, labour certification tests, or other procedures of similar effect.

D. Intra-Company Transferees

8. A business person seeking temporary entry into the United States of America as an intra-company transferee shall be granted entry under section 101(a)(15)(L) of the Immigration and Nationality Act, and be provided confirming documentation, if the business person:

a) immediately preceding the time of application for admission has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof;

b) is seeking temporary entry in order to continue to render services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge; and

c) meets existing requirements for entry.

9. The United States of America shall not require, as a condition for temporary entry under paragraph 8, labour certification tests or other procedures of similar effect.

Schedule 1

to

Annex 1502.1

Research and Design

- technical, scientific, and statistical researchers conducting independent research, or research for an enterprise located in Canada/the United States.

Growth, Manufacture, and Production

- harvester owner supervising a harvesting crew admitted under applicable law.
- purchasing and production management personnel conducting commercial transactions for an enterprise located in Canada/the United States.

Marketing

- market researchers and analysts conducting independent research or analysis, or research or analysis for an enterprise located in Canada/the United States.
- trade fair and promotional personnel attending a trade convention.

Sales

- sales representatives and agents taking orders or negotiating contracts for goods or services but not delivering goods or providing services.
- buyers purchasing for an enterprise located in Canada/the United States.

Distribution

- transportation operators delivering to the United States/Canada or loading and transporting back to Canada/the United States, with no intermediate loading or delivery within the United States/Canada.
- customs brokers performing brokerage duties associated with the export of goods from the United States/Canada to or through Canada/the United States.

After-Sales Service

- installers, repair and maintenance personnel, and supervisors, possessing specialized knowledge essential to the seller's contractual obligation, performing services or training workers to perform such services, pursuant to a warranty or other service contract incidental to the sale of commercial or industrial equipment or machinery, including computer software, purchased from an enterprise located outside the United States/Canada, during the life of the warranty or service agreement.

General Service

- professionals: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the Immigration and Nationality Act, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.
- management and supervisory personnel engaging in commercial transactions for an enterprise located in Canada/the United States.
- computer specialists: with respect to entry into the United States of America, otherwise classifiable under section 101(a)(15)(H)(i) of the Immigration and nationality Act, but receiving no salary or other remuneration from a United States source; and, with respect to entry into Canada, exempt from the requirement to obtain an employment authorization pursuant to subsection 19(1) of the Immigration Regulations, 1978, but receiving no salary or other remuneration from a Canadian source.
- financial services personnel (insurers, bankers, or investment brokers) engaging in commercial transactions for an enterprise located in Canada/the United States.
- public relations and advertising personnel consulting with business associates, or attending or participating in conventions.
- tourism personnel (tour and travel agents, tour guides or tour operators) attending or participating in conventions or conducting a tour that has begun in Canada/the United States.
- translators or interpreters performing services as employees of an enterprise located in Canada/the United States.

Schedule 2

to

Annex 1502.1

- accountant
- engineer
- scientist
  - biologist
  - biochemist
  - physicist
  - geneticist
  - zoologist
  - entomologist
  - geophysicist
  - epidemiologist
  - pharmacologist
  - animal scientist
  - agriculturist (agronomist)
  - dairy scientist
  - poultry scientist
  - soil scientist
- research assistant (working in a post-secondary educational institution)
- medical/allied professional
  - physician (teaching and/or research only)
  - dentist
  - registered nurse
  - veterinarian
  - medical technologist
  - clinical lab technologist
- architect
- lawyer
- teacher
  - college
  - university
  - seminary
- economist
- social worker
- vocational counselor
- mathematician (baccalaureate)
- hotel manager (baccalaureate and 3 years experience)
- librarian (MLS)
- animal breeder
- plant breeder
- horticulturist
- sylviculturist (forestry specialist)
- range manager (range conservationist)
- forester
- journalist (baccalaureate and 3 years experience)
- nutritionist
- dietitian
- technical publications writer
- computer systems analyst
- psychologist
- management consultant (baccalaureate, or equivalent professional experience [1])
- scientific technician/technologist [2]
- disaster relief insurance claims adjuster [3]

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[1] Standards for equivalence to be developed prior to entry into force of this Agreement.

[2] Must—

a) work in direct support of professionals in the following disciplines: chemistry, geology, geophysics, meteorology, physics, astronomy, agricultural sciences, biology, or forestry;

b) possess theoretical knowledge of the discipline;

c) solve practical problems in the discipline; and

d) apply principles of the discipline to basic or applied research.

[3] Standards for qualification to be developed prior to entry into force of this Agreement.

VII. DESCRIPTION OF OTHER PROVISIONS RELATING TO IMMIGRATION OR TREATMENT OF ALIENS

A. Military Service

Enlistment.—Sections 3253 and 8253 of title 10, United States Code, prohibit original peacetime enlistment in the Army or the Air Force, respectively, of anyone who is not a citizen or lawful permanent resident alien.

Military Selective Service Act.—Section 3 of the Act (50 U.S.C. App. 453(a)) exempts nonimmigrants under section 101(a)(15) of the INA from registration. Section 5(a)(1)(3) [sic] (50 U.S.C. App. 455(a)(1)(3)) prohibits ordering induction of an alien who has not resided in the United States for one year. Section 6(a)(1) (50 U.S.C. App. 456(a)(1)), in the proviso to the first sentence, provides that a permanent resident alien who qualifies for nonimmigrant status because of diplomatic or treaty status (viz., subparagraph (A), (E), or (G) of section 101(a)(15) of the INA) who executes a waiver under section 247(b) of the INA is subject to registration, but any induction is deferred as long as occupation status continues.

Other Service.—There are numerous restrictions on service by aliens (other than permanent residents) in the Armed Forces and related agencies including service in the reserves (10 U.S.C. 510(b), 591(b)(1)), original appointment as a commissioned officer (10 U.S.C. 532(a)), appointment to the Naval Academy (10 U.S.C. 6958(c)), appointment as an aviation cadet (10 U.S.C. 8257(b)), service in the Coast Guard Reserve (14 U.S.C. 706), appointment as an officer in the National Guard (32 U.S.C. 313(b)(1)), appointment in the Commissioned Corps of the Public Health Service (42 U.S.C. 204), and appointment to the Merchant Marine Academy (46 U.S.C. App. 1295b(b)).

B. Social Security Act Provisions

1. Old Age, Survivors, and Disability Insurance (OASDI).—Section 202(n) of the Act (42 U.S.C. 402(n)) provides for termination of monthly benefits under title II of the Act for individuals who have been deported under paragraph (1), (2), (4)–(7), (10)–(12), or (14)–(19) of section 241(a). Section 202(t) of the Act (42 U.S.C. 402(t)), with exceptions, provides for suspension of monthly social security payments for aliens while they are outside of the United States. Section 228(a) of the Act (42 U.S.C. 428(a)) limits eligibility for a program of special social security monthly benefits for uninsured individuals over the age of 72 to citizens and to permanent resident aliens who have resided in the United States for at least 5 years.

2. Social Security Account Numbers.—Section 205(c)(2)(B)(i) of the Act (42 U.S.C. 405(c)(2)(B)(i)) directs that, in the issuance of social security account numbers, such numbers not be issued to aliens whose status prohibits them from engaging in employment.

3. AFDC (Aid to Families with Dependent Children).—Section 402(a)(33) of the Act (42 U.S.C. 602(a)(33)) requires that under a State AFDC plan, in order for an individual to be a dependent child or for his or her needs to be taken into account, the individual must be a citizen, an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including refugees and parolees). Section 415 of the Act (42 U.S.C. 615) provides generally, for purposes of determining eligibility for and the amount of benefits under the AFDC program, that a sponsor's income and resources are attributed to an alien. AFDC eligibility is subject, as of October 1, 1988, to verification of immigration status under the "SAVE" program (see § 1137(d) of the Social Security Act, shown below); funding for 100 percent of the costs of implementing and operating the SAVE program under AFDC is contained, effective October 1, 1987, in section 403(a)(3)(A) of the Social Security Act (42 U.S.C. 603(a)(3)(A)). For restrictions on certain legalized aliens and special agricultural workers receiving AFDC benefits, see

§ 402(f) of the Social Security Act (42 U.S.C. 602(f)) and §§ 210(f), 210A(d)(6), and 245A(h)(1)(A)(i) of the INA.

4. SAVE (System for Alien Verification of Eligibility).—Section 121(a) of the Immigration Reform and Control Act of 1986 (Pub. L. 99-603) added a requirement (effective October 1, 1988, unless otherwise waived) of various Federal and State assistance programs, including AFDC, medicaid, food stamps, unemployment compensation, educational assistance, and housing assistance, that a verification be made of immigration status as a condition of eligibility. These requirements are contained in § 1137(d) & (e) of the Social Security Act (42 U.S.C. 1320b-7) (for AFDC, medicaid, unemployment compensation, and food stamps); § 214(d), (e), & (f) of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a) (for housing assistance programs); and § 484(h), (i), & (j) of the Higher Education Act of 1965 (20 U.S.C. 1091) (for title IV educational assistance). For text, see pp. 276—277. Subsection (b) of section 121 of Pub. L. 99-603 amended a variety of laws to provide, effective October 1, 1987, 100 percent reimbursement for costs of implementation and operation of the immigration status verification system. For text of subsections (c) and (d) of that section, regarding effective dates and GAO reports, see pp. 256—257.

5. SSI (Supplemental Security Income Program).—Section 1614(a)(1)(B) of the Act (42 U.S.C. 1382c(a)(1)(B)) limits eligibility under the Supplemental Security Income program to citizens, lawful permanent resident aliens, and aliens permanently residing in the United States under color of law (including refugees and parolees). Sections 1614(f) and 1621 of the Act (42 U.S.C. 1382c(f), 1382j) provide severally for purposes of determining eligibility for and the amount of benefits under the SSI program, that a sponsor's income and resources are attributed to an alien.

6. Medicare.—An individual who is over 65 years of age and who is otherwise not entitled to receive medicare benefits is eligible to enroll in the medicare program under sections 1818(a) and 1835 of the Act (42 U.S.C. 1395i-2(a), 1395o) if the individual is a resident of the United States and either is a citizen or is an alien "lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment".

7. Medicaid (title xix).—Section 1903(v) of the Act (42 U.S.C. 1396b(v)), effective January 1, 1987 (under § 9406 of Pub. L. 99-509) prohibits payments under medicaid for aliens who are not lawfully admitted for permanent residence of otherwise permanently residing in the United States under color of law, except for emergency medical treatment in the case of aliens who otherwise meet the eligibility requirements of the medicaid plan. For special eligibility provisions relating to legalized aliens and certain special replenishment agricultural workers, see §§ 210A(d)(6) and 245A(h)(3) of the INA. Medicaid eligibility is subject, as of October 1, 1988, to verification of immigration status under the "SAVE" program (see § 1137(d) of the Social Security Act, shown on pp. 271-272); funding for 100 percent of the costs of implementing and operating the SAVE program under medicaid is contained, effective October 1, 1987, in section 1903(a)(4) of the Social Security Act (42 U.S.C. 1396b(a)(4)).

C. Migrant and Seasonal Agricultural Worker Protection Act

(Public Law 97-470, as amended by § 101(b) of Pub. L. 99-603; 29 U.S.C. 1801 et seq.)

[Background Note.—The Act regulates the employment of migrant and seasonal agricultural workers. However, these workers do not include "any temporary nonimmigrant alien who is authorized to work in agricultural employment in the United States under sections 101(a)(15)(H)(ii)(a) and 214(c) of the Immigration and Nationality Act" (§§ 3(8)(B)(ii), 3(10)(B)(iii) of MASAWPA). Effective June 1, 1987, section 103(a)(6) authorizes the Secretary of Labor to refuse to issue or renew, or to suspend or revoke, a certificate of registration under the Act if the applicant or holder has been found to have violated paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act. Effective for employment, recruitment, referral and utilization of services *before* June 1, 1987, section 106 provides as follows:]

PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

SEC. 106. (a) No farm labor contractor shall recruit, hire, employ, or use, with knowledge, the services of any individual who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

(b) A farm labor contractor shall be considered to have complied with subsection (a) if the farm labor contractor demonstrates that the farm labor contractor relies in good faith on documentation prescribed by the Secretary, and the farm labor contractor had no reason to believe the individual was an alien referred to in subsection (a).

[NOTE.—In addition, effective June 1, 1987, section 501(b) provides for imprisonment for 3 years, a criminal fine of $10,000, or both, in the case of a farm labor contractor who violates paragraph (1) or (2) of section 274A(a) of the Immigration and Nationality Act and who has been refused issuance or renewal of, or has failed to obtain, a certificate of registration or whose certificate has been suspended or revoked.]

[Section 210A(f) of the Immigration and Nationality Act refers to the following provisions of MASAWPA:]

* * * * * * *

APPLICABILITY OF ACT

SEC. 4. (a) The following persons are not subject to this Act:

(1) FAMILY BUSINESS EXEMPTION.—Any individual who engages in a farm labor contracting activity on behalf of a farm, processing establishment, seed conditioning establishment, cannery, gin, packing shed, or nursery, which is owned or operated exclusively by such individual or an immediate family member of such individual, if such activities are performed only for such operation and exclusively by such individual or an immediate family member, but without regard to whether such individual has incorporated or otherwise organized for business purposes.

(2) SMALL BUSINESS EXEMPTION.—Any person, other than a farm labor contractor, for whom the man-days exemption for agricultural labor provided under section 13(a)(6)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)(A)) is applicable.

* * * * * * *

INFORMATION AND RECORDKEEPING REQUIREMENTS

SEC. 301. (a)(1) Each farm labor contractor, agricultural employer, and agricultural association which recruits any seasonal agricultural worker (other than day-haul workers described in section 3(10)(A)(ii) shall ascertain and, upon request, disclose in writing the following information when an offer of employment is made to such worker:

(A) the place of employment;

(B) the wage rates to be paid;

(C) the crops and kinds of activities on which the worker may be employed;

(D) the period of employment;

(E) the transportation and any other employee benefit to be provided, if any, and any costs to be charged for each of them;

(F) the existence of any strike or other concerted work stoppage, slowdown, or interruption of operations by employees at the place of employment; and

(G) the existence of any arrangements with any owner or agent of any establishment in the area of employment under which the farm labor contractor, the agricultural employer, or the agricultural association is to receive a commission or any other benefit resulting from any sales by such establishment to the workers;

(2) Each farm labor contractor, agricultural employer, and agricultural association which recruits seasonal agricultural workers through use of a day-haul operation described in section 3(10)(A)(ii) shall ascertain and disclose in writing to the worker at the place of recruitment the information described in paragraph (1).

(b) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall, at the place of employment, post in a conspicuous place a poster provided by the Secretary setting forth the rights and protections afforded such workers under this Act, including the right of a seasonal agricultural worker to have, upon request, a written statement provided by the farm labor contractor, agricultural employer, or agricultural association, of the information described in subsection (a). Such employer shall provide, upon request, a written statement of the information described in subsection (a).

(c) Each farm labor contractor, agricultural employer, and agricultural association which employs any seasonal agricultural worker shall—

(1) with respect to each such worker, make, keep, and preserve records for three years of the following information:

(A) the basis on which wages are paid;
(B) the number of piecework units earned, if paid on a piecework basis;
(C) the number of hours worked;
(D) the total pay period earnings;
(E) the specific sums withheld and the purpose of each sum withheld; and
(F) the net pay; and

(2) provide to each such worker for each pay period, an itemized written statement of the information required by paragraph (1) of this subsection.

* * * * * * *

ADMINISTRATIVE SANCTIONS

SEC. 503. (a)(1) Subject to paragraph (2), any person who commits a violation of this Act or any regulation under this Act, may be assessed a civil money penalty of not more than $1,000 for each violation.

(2) In determining the amount of any penalty to be assessed under paragraph (1), the Secretary shall take into account (A) the previous record of the person in terms of compliance with this Act and with comparable requirements of the Farm Labor Contractor Registration Act of 1963, and with regulations promulgated under such Acts, and (B) the gravity of the violation.

(b)(1) The person assessed shall be afforded an opportunity for agency hearing, upon request made within thirty days after the date of issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

(2) If a hearing is requested, the initial agency decision shall be made by an administrative law judge, and such decision shall become the final order unless the Secretary modifies or vacates the decision. Notice of intent to modify or vacate the decision of the administrative law judge shall be issued to the parties within thirty days after the decision of the administrative law judge. A final order which takes effect under this paragraph shall be subject to review only as provided under subsection (c).

(c) Any person against whom an order imposing a civil money penalty has been entered after an agency hearing under this section may obtain review by the United States district court for any district in which he is located or the United States District Court for the District of Columbia by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered mail to the Secretary. The Secretary shall promptly certify and file in such court the record upon which the penalty was imposed. The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code. Any final decision, order, or judgment of such District Court concerning such review shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

(d) If any person fails to pay an assessment after it has become a final and unappealable order, or after the court has entered final judgment in favor of the agency, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

(e) All penalties collected under authority of this section shall be paid into the Treasury of the United States.

* * * * * * *

DISCRIMINATION PROHIBITED

SEC. 505. (a) No person shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any migrant or seasonal agricultural worker because such worker has, with just cause, filed any complaint or instituted, or caused to be instituted, any proceeding under or related to this Act, or has testified or is about to testify in any such proceedings, or because of the exercise, with just cause, by such worker on behalf of himself or others of any right or protection afforded by this Act.

(b) A migrant or seasonal agricultural worker who believes, with just cause, that he has been discriminated against by any person in violation of this section may, within 180 days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this section have been violated, the Secretary shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown, to restrain violation of subsection (a) and order all appropriate relief, including rehiring or reinstatement of the worker, with back pay, or damages.

D. FOOD STAMP ACT OF 1977

Section 6(f) of that Act (7 U.S.C. 2015(f)) denies eligibility for food stamps to an individual unless the individual is "either (A) a citizen or (B) an alien lawfully admitted for permanent residence as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) and 8 U.S.C. 1101(a)(20)), excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country; or (C) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 249 of the Immigration and Nationality Act (8 U.S.C. 1259); or (D) an alien who has qualified for conditional entry pursuant to sections 207 and 208 of the Immigration and Nationality Act (8 U.S.C. 1157 and 1158); or (E) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)); or (F) an alien within the United States as to whom the Attorney General has withheld deportation pursuant to section 243 of the Immigration and Nationality Act (8 U.S.C. 1253(h)). No aliens other than the ones specifically described in clauses (B) through (F) of this subsection shall be eligible to participate in the food stamp program as a member of any household. The income (less a pro rata share) and financial resources of the individual rendered ineligible to participate in the food stamp program under this subsection shall be considered in determining the eligibility and the value of the allotment of the household of which such individual is a member." Section 5(i) of the Act (7 U.S.C. 2014(i)) provides generally, for purposes of determining eligibility for and the amount of food stamp assistance, that a sponsor's income and resources are attributed to an alien. In addition, section 11(e)(17) of the Act (7 U.S.C. 2020(d)(17)), requires that States participating in the food stamp program must provide for "immediate reporting to the Immigration and Naturalization Service by the State agency of a determination by personnel responsible for the certification or recertification of households that any member of a household is ineligible to receive food stamps because that member is present in the United States in violation of the Immigration and Nationality Act;". Food stamp eligibility is subject, as of October 1, 1988, to verification of immigration status under the "SAVE" program (see §1137(d) of the Social Security Act, shown on pp. 271–272) and §11(e)(19) of the Food Stamp Act of 1977, 7 U.S.C. 2020(e)(19); funding for 100 percent of the costs of implementing and operating the SAVE program under the food stamp program is contained, effective October 1, 1987, in section 16(j) of the

Food Stamp Act of 1977 (7 U.S.C. 2025(j)). For special eligiblility provisions relating to legalized aliens and certain special agricultural replenishment workers, see §§210A(d)(6) and 245A(h)(1)(A)(iii) of the INA.

E. FEDERAL EMPLOYMENT

CIVIL SERVICE EMPLOYMENT.—Under the authority of section 3301 of title 5, United States Code, the President has, by Executive Order (5 C.F.R. § 7.4), required a person to be a citizen or national of the United States to take the examination for or be appointed to the competitive service; the order permits the Office of Personnel Management, in order to promote efficiency of the service in specific cases or for temporary appointments, to authorize appointment of aliens.

FOREIGN SERVICE AND PEACE CORPS.—Aliens cannot serve as members of the Peace Corps or Foreign Service (22 U.S.C. 2504(a), 3941(a)).

CENSUS.—Section 22 of title 13, United States Code, requires all permanent employees and officers of the Census Bureau to be United States citizens.

LIMITATIONS OF APPROPRIATIONS ACTS.—Virtually every fiscal year a general provision (shown at 5 U.S.C. 3101 note) has been placed into one of the appropriations Acts that limits the use of any appropriations to pay compensation to an officer or employee of the United States whose post of duty is in the continental United States to citizens and certain other specified aliens. The most recent version of this was in section 603 of the Treasury, Postal Service, and General Government Appropriations Act, 1989 (Public Law 100–440, September 22, 1988, 102 Stat. 1751), which provides as follows:

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SPECIFIC STATUTORY AUTHORITY.—Some provisions of law specifically permit aliens to be paid or employed in certain positions, including in military research and development (10 U.S.C. 1584); in technical or scientific work for the Navy (10 U.S.C. 7473); in scientific or technical work for the Smithsonian Institution (20 U.S.C. 46a); in work for the Library of Congress (2 U.S.C. 143a, 169); as translators for USIA (22 U.S.C. 1474(1)); under service contracts abroad, as language instructors, and for other international activities for the State Department (22 U.S.C. 2669(c), 2672(b)(1), 4024(a)(4)(B)); and as consultants to the Public Health Service (42 U.S.C. 209(h)) and NASA (42 U.S.C. 2473(c)(10)). However, aliens cannot have access to information about military aircraft, or participate in aircraft trials, without the consent in writing of the appropriate military secretary (10 U.S.C. 2279).

F. HOUSING ASSISTANCE PROGRAMS

Section 214 of the Housing and Community Development Act of 1980 (42 U.S.C. 1436a), shown in Appendix II. A. 2., at pp. 273–276, prohibits financial assistance being provided under the United States Housing Act of 1937, under sections 235 and

236 of the National Housing Act, and under section 101 of the Housing and Urban Development Act of 1965, to an alien unless the alien is a resident of the United States and is lawfully admitted for permanent residence, an alien provided a record of permanent residence under section 249 of the INA, a refugee, asylee, or parolee, for whom deportation is suspended under section 243(h) of the INA, or an alien provided temporary or permanent residence under section 245A of the INA.

G. LEGAL SERVICES PROGRAM

Legal assistance under the Legal Services Corporation Act (42 U.S.C. 2966 et seq.) for aliens has been restricted, under recent appropriations Acts (see, e.g., for fiscal year 1989, Pub. L. 100-459, 102 Stat. 2225) only to an alien who is present in the United States and who (1) is lawfully admitted for permanent residence; (2) is married to, the parent of, or the unmarried child of, a citizen of the United States and has a petition for adjustment to permanent residence pending; (3) has been admitted as a refugee (including conditional entrants under the old §203(a)(7) of the INA) or granted asylum; or (4) is present in the U.S. as a result of withholding of deportation under §243(h) of the INA.

H. EDUCATIONAL ASSISTANCE PROGRAMS

ELEMENTARY AND SECONDARY EDUCATION.—There is no restriction under either the Education Consolidation and Improvement Act of 1981 or the Elementary and Secondary Education Act of 1965 relating to citizenship of students who are otherwise served by educational agencies.

HIGHER EDUCATION.—In order to be eligible for a grant, loan, or work assistance under the Higher Education Act of 1965, under §484(a)(5) of such Act (as amended by §407 of Pub. L. 99-498) the student must be a citizen or national of the United States, a permanent resident of the United States, in the United States for other than a temporary purpose and be able to provide evidence from Immigration and Naturalization Service of intent to become a permanent resident, or a permanent residence of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands. Eligibility for grants, loans, and work assistance under title IV of the Higher Education Act of 1965 is subject, as of October 1, 1988, to verification of immigration status under §484(h) of such Act (20 U.S.C. 1091(h)); funding for 100 percent of the costs of implementing and operating the SAVE program under such title is contained, effective October 1, 1987, in section 489(a) of such Act (20 U.S.C. 1096(a)).

I. UNEMPLOYMENT COMPENSATION PROGRAM

Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 requires conforming State unemployment compensation laws not to provide unemployment compensation for any alien who is not a permanent resident alien or otherwise residing in the United States under color of law (including refugees and parolees). In addition, agricultural labor performed before January 1, 1993, by a section 101(a)(15)(H) nonimmigrant alien and service performed by an alien nonimmigrant student, viz., 101(a)(15)(F), (J), or (M) are excluded, under section 3306(c)(1)(B) and (c)(19) of the Code (as amended by Pub. L. 99-595 and Pub. L. 100-647), from employment subject to unemployment compensation taxes. Unemployment compensation eligibility effective Oct. 1, 1988, is subject to verification of immigration status under the "SAVE" program (see § 1137(d) of the Social Security Act, pp. 271-272); funding for 100 percent of the costs of implementing and operating the SAVE program under unemployment compensation, effective Oct. 1, 1987, is contained in § 302(c) of the Social Security Act (42 U.S.C. 502(a)).

J. TAX TREATMENT OF ALIENS

EXCHANGE VISITORS, STUDENTS, AND OTHER ALIENS.—Section 871 of the Internal Revenue Code of 1986 provides for taxation of income of section 101(a)(15)(F), (J), or (M) nonimmigrant students employed in the United States, but section 872(b)(3) of such Code excludes from taxation any compensation paid by foreign employers. Section 1441(b) of such Code provides withholding of taxes on parts of scholarships and fellowship grants provided such aliens. Note that sections 3121(b)(19) and 3231(e)(1) of such Code exclude from FICA and Railroad Retirement taxes compensation of such aliens, and corresponding provisions of section 210(a)(19) of the Social Security

Act (42 U.S.C. 410(a)(19)), section 1(h)(6)(ii) of the Railroad Retirement Act of 1974 (45 U.S.C. 231(h)(6)(ii)) and section 1(i) of the Railroad Unemployment Insurance Act (45 U.S.C. 351(i)) exclude such services from covered employment for retirement and unemployment benefits thereunder.

Required Filing of Returns.—Section 6851(d)(1) of the Internal Revenue Code of 1986 provides that "[s]ubject to such exceptions as may, by regulation, be prescribed by the Secretary [of the Treasury] . . . (1) [n]o alien shall depart from the United States unless he first procures from the Secretary a certificate that he has complied with all obligations imposed upon him by the income tax laws. . . .". In addition, § 6039E of the code (added by § 1234(a) of the Tax Reform Act of 1986, Pub. L. 99-514) requires each alien who applies to be an immigrant to include, with the application, the alien's taxpayer identification number and information on recent tax filings; this becomes effective not later than January 1, 1988.

Nonresident Aliens.—There are special tax rules (in §§ 871-877 of the code) that apply to nonresident aliens (as defined in § 7701(b)), and § 1441 has rules concerning withholding of tax on certain payments made to nonresident aliens.

K. License Restrictions

Atomic Energy Act of 1954.—Under sections 103d. and 104d. of the Act (42 U.S.C. 2133(d), 2134(d)), aliens cannot hold licenses for the commercial, medical, or industrial use of nuclear material.

U.S. Vessels.—Only U.S. citizens may serve as masters, chief engineers, officers, or radio officers on U.S. documented vessels (46 U.S.C. 8103(a)). All unlicensed seamen on fishing, fish processing, or fish tender vessels must be U.S. citizens, aliens lawfully admitted for permanent residents, or aliens allowed to be employed under the INA (46 U.S.C. 8103(i)), but no more than 25 percent of such seaman on a vessel may be non-permanent resident aliens.

Broadcast and Common Carrier Licenses.—Section 310(b) of the Communications Act of 1934 (47 U.S.C. 310(b)) prohibits the issuance of broadcast and common carrier and similar station licenses to aliens and section 303(l)(1) of the Act (47 U.S.C. 303(l)(1)) generally limits operator's licenses to citizens and nationals of the United States; these provisions do not apply, under sections 310(c) and 303(1) & (3) of the Act, to amateur radio station licenses.

Airline Pilots.—Under section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1422(b)), the Secretary of Transportation has the discretionary authority to prohibit or restrict the issuance to aliens of airline transport pilot licenses.

Customs Brokers.—Aliens may not be licensed as customs brokers (19 U.S.C. 1641(b)).

L. Miscellaneous

1. Relationship with Public Health Service.—The Public Health Service Act provides in sections 322, 325, and 2602 (42 U.S.C. 249, 252, 300aaa-1) for cooperative arrangements between the Public Health Service and the Immigration and Naturalization Service in the use of their hospitals and in the medical inspection of aliens within and outside the United States.

Jury Duty.—Aliens may not serve on Federal juries (28 U.S.C. 1865(b)(1)).

Federal Privacy Act.—Under section 552a(a)(2) of title 5, United States Code, only citizens and lawful permanent resident aliens are entitled to rights under the so-called Privacy Act.

Political Contributions.—Aliens not lawfully admitted for permanent residence are prohibited from making contributions to U.S. political campaigns (§ 319 of the Federal Elections Campaign Act of 1971, 2 U.S.C. 441e).

Employment of Illegal Aliens on Public Works Water Projects.—Employment of unauthorized aliens is prohibited under grants for certain public works water projects (42 U.S.C. 6705(e)(2)).

Citizenship Day (September 17th).—September 17th of each year is designated as "Citizenship Day" under the first section of the Act of Feb. 29, 1952 (36 U.S.C. 153), with a Presidential proclamation and appropriate ceremonies in schools, churches, and other suitable places.

M. Bracero Program (Expired December 31, 1964)

[Historical Note.—The so-called "Bracero" program derived from agricultural exchange programs operated under Executive agreements between the United

States and Mexico before and during World War II. In Public Law 78 (Act of July 12, 1951), Congress amended the Agricultural Act of 1949 by adding a new title V; this provided a statutory basis for the importation of agricultural workers from Mexico. This title was first intended to apply to employment only up to December 31, 1953, but was extended several times by Congress until it expired on December 31, 1964. This title, previously codified as subchapter IV of chapter 35A of title 7, United States Code, is shown below. For further information on this and other temporary worker programs, see "Temporary Worker Programs: Background and Issues", Senate Judiciary Committee Print (February 1980).]

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TITLE V—AGRICULTURAL WORKERS

SEC. 501. For the purpose of assisting in such production of agricultural commodities and products as the Secretary of Agriculture deems necessary, by supplying agricultural workers from the Republic of Mexico (pursuant to arrangements between the United States and the Republic of Mexico or after every practicable effort has been made by the United States to negotiate and reach agreement on such arrangements), the Secretary of Labor is authorized—

(1) to recruit such workers (including any such workers who have resided in the United States for the preceding five years, or who are temporarily [illegible] the United States under legal entry);

(2) to establish and operate reception centers at or near the places of actual entry of such workers into the continental United States for the purpose of receiving and housing such workers while arrangements are being made for their employment in, or departure from, the continental United States;

(3) to provide transportation for such workers from recruitment centers outside the continental United States to such reception centers and transportation from such reception centers to such recruitment centers after termination of employment;

(4) to provide such workers with such subsistence, emergency medical care, and burial expenses (not exceeding $150 burial expenses in any one case) as may be or become necessary during transportation authorized by paragraph (3) and while such workers are at reception centers;

(5) to assist such workers and employers in negotiating contracts for agricultural employment (such workers being free to accept or decline agricultural employment with any eligible employer and to choose the type of agricultural employment they desire, and eligible employers being free to offer agricultural employment to any workers of their choice not under contract to other employers);

(6) to guarantee the performance by employers of provisions of such contracts relating to the payment of wages or the furnishing of transportation.

SEC. 502. No workers shall be made available under this title to any employer unless such employer enters into an agreement with the United States—

(1) to indemnify the United States against loss by reason of its guaranty of such employer's contracts;

(2) to reimburse the United States for essential expenses incurred by it under this title, except salaries and expenses of personnel engaged in compliance activities, in amounts not to exceed $15 per worker; and

(3) to pay to the United States, in any case in which a worker is not returned to the reception center in accordance with the contract entered into under section 501(5), an amount determined by the Secretary of Labor to be equivalent to the normal cost to the employer of returning other workers from the place of employment to such reception center, less any portion thereof required to be paid by other employers: *Provided, however,* That if the employer can establish to the satisfaction of the Secretary of Labor that the employer has provided or paid to the worker the cost of return transportation and subsistence from the place of employment to the appropriate reception center, the Secretary under such regulations as he may prescribe may relieve the employer of his obligation to the United States under this subsection.

SEC. 503. No workers recruited under this title shall be available for employment in any area unless the Secretary of Labor has determined and certified that (1) sufficient domestic workers who are able, willing, and qualified are not available at the time and place needed to perform the work for which such workers are to be employed, (2) the employment of such workers will not adversely affect the wages and working conditions of domestic agricultural workers similarly employed, and (3) reasonable efforts have been made to attract domestic workers for such employment at wages, standard hours of work, and working conditions comparable to those offered to foreign workers. In carrying out the provision of clauses (1) and (2) of this section, provision shall be made for consultation with agricultural employers and workers for the purpose of obtaining facts relevant to the supply of domestic farm workers and the wages paid such workers engaged in similar employment. Information with respect to certifications under clause (1) and (2) shall be posted in the appropriate local public employment offices and such other public places as the Secretary may require.

Sec. 504. No workers recruited under this title shall be made available to any employer or permitted to remain in the employ of any employer—

(1) for employment in other than temporary or seasonal occupations, except in specific cases when found by the Secretary of Labor necessary to avoid undue hardship; or

(2) for employment to operate or maintain power-driven self-propelled harvesting, planting, or cultivating machinery, except in specific cases when found by the Secretary of Labor necessary for a temporary period to avoid undue hardship.

Sec. 505. Workers recruited under this title who are not citizens of the United States shall be admitted to the United States subject to the immigration laws (or if already in, for not less than the preceding five years or by virtue of legal entry, and otherwise eligible for admission to, the United States may, pursuant to arrangements between the United States and the Republic of Mexico, be permitted to remain therein) for such time and under such conditions as may be specified by the Attorney General but, notwithstanding any other provision of law or regulation, no penalty bond shall be required which imposes liability upon any person for the failure of any such worker to depart from the United States upon termination of employment: *Provided*, That no workers shall be made available under this title to, nor shall any workers made available under this title be permitted to remain in the employ of, any employer who has in his employ any Mexican alien when such employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican alien is not lawfully within the United States.

Sec. 506. (a) Section 210(a)(1) of the Social Security Act, as amended, is amended by adding at the end thereof a new subparagraph as follows:

> "(C) Service performed by foreign agricultural workers under contract entered into in accordance with title V of the Agricultural Act of 1949, as amended."

(b) Workers recruited under the provisions of this title shall not be subject to the head tax levied under section 2 of the Immigration Act of 1917 (8 U.S.C. 132).

(c) Workers recruited under the provisions of this title shall not be subject to any Federal or State tax levied to provide illness or disability benefits for them.

Sec. 507. For the purposes of this title, the Secretary of Labor is authorized—

(1) to enter into agreements with Federal and State agencies; to utilize (pursuant to such agreements) the facilities and services of such agencies, and to allocate or transfer funds or otherwise to pay or reimburse such agencies for expenses in connection therewith;

(2) to accept and utilize voluntary and uncompensated services; and

(3) when necessary to supplement the domestic agricultural labor force, to cooperate with the Secretary of State in negotiating and carrying out agreements or arrangements relating to the employment in the United States, subject to the immigration laws, of agricultural workers from the Republic of Mexico.

Sec. 508. For the purposes of this title—

(1) The term "agricultural employment" includes services or activities included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938, as amended, or section 1426(h) of the Internal Revenue Code [of 1954], as amended.

(2) The term "employer" shall include an association, or other group, of employers, but only if (A) those of its members for whom workers are being obtained are bound, in the event of its default, to carry out the obligations undertaken by it pursuant to section 502, or (B) the Secretary determines that such individual liability is not necessary to assure performance of such obligations.

Sec. 509. Nothing in this Act shall be construed as limiting the authority of the Attorney General, pursuant to the general immigration laws, to permit the importation of aliens of any nationality for agricultural employment as defined in section 508, or to permit any such alien who entered the United States legally to remain for the purpose of engaging in such agricultural employment under such conditions and for such time as he, the Attorney General, shall specify.

SEC. 510. No workers will be made available under this title for employment after December 31, 1964.

II. INFORMATION RELATING TO PROCESSING OF IMMIGRANTS AND NONIMMIGRANTS

(Source: Visa Office, Department of State, as of March 15, 1989)

A. PROVISIONS OF THE LAW AND NUMERICAL LIMITATIONS ON IMMIGRANT VISAS

Some form of numerical limitation has been imposed on immigration into the United States since 1921, although certain classes of immigrants have traditionally been able to obtain visas outside these limitations. Outlined below are the basic elements of the system applicable at present; unless otherwise stated, the section of law cited refers to the Immigration and Nationality Act, as amended.

I. Classes not subject to the numerical limitations:

A. Immediate Relatives:

(1) Spouse and children of U.S. citizens and parents of citizens at least 21 years of age; (Sec. 201(b)).

B. Special Immigrants:

(1) Returning residents; (Sec. 101(a)(27)(A)).

(2) Certain former U.S. citizens; (Sec. 101(a)(27)(B)).

(3) Ministers of religion and the spouse and children of such immigrants; (Sec. 101(a)(27)(C)).

(4) Certain employees or former employees of the U.S. Government abroad and the accompanying spouse and children of such immigrants; (Sec. 101(a)(27)(D)).

(5) Special Immigrant Doctors: The Immigration and Nationality Act Amendments of 1981 (P.L. 97-116, Dec. 29, 1981) provides special immigrant status to certain medical doctors applying for adjustment of status in the U.S. and their accompanying spouses and children. While there is no numerical limit for this category, otherwise unused numbers under the limitations specified in sections 201(a) and 202(a) of the Immigration and Nationality Act are assigned to these cases or the annual limitation for the subsequent year is reduced by an equivalent amount; (Sec. 101(a)(27)(H); Sec. 20 of P.L. 97-116).

(6) Certain officers and employees of international organizations and their immediate family members; (Sec. 101(a)(27)(I), added by Sec. 312 of the Immigration Reform and Control Act of 1986, P.L. 99-603).

C. Vietnam Amerasian Immigrants:

Section 584 of P.L. 100-204, enacted December 22, 1987, created a new immigrant visa category for Vietnam Amerasian immigrants and their immediate family members who are issued immigrant visas and depart Vietnam during the two-year period March 21, 1988 through March 20, 1990.

II. Numerically limited classes:

A. Special Immigrant Categories:

(1) Certain former employees of the Panama Canal Company or Canal Zone Government, up to a total of 15,000 immigrants, but no more than 5,000 in any fiscal year; (Sec. 101(a)(27)(E),(F) and (G)).

B. Preference/Nonpreference Categories:

(1) Numerical limitations: 270,000 per annum, (Section 201(a); not more than 20,000 per foreign state, not more than 5,000 per dependent area (Section 202); otherwise unused numbers under the 270,000 limitation and the foreign state limitation are to be applied to special immigrant doctors [see

I. B. 5 above] and to certain investors whose status is adjusted under Section 19 of the Immigration and Nationality Act Amendments of 1981, P.L. 97-116, or the annual limitation for the subsequent year is to be reduced by an equivalent amount.

(2) As a selective mechanism to enable distribution of the numbers to the immigrants desired, a system of six preference classes exists: Four (1, 2, 4, and 5) based on relationship to U.S. citizens or resident aliens, two (3 and 6) based on need for labor; (Section 203).

(3) Preference system (percentages applied by Sec. 203 against the annual limitation in Sec. 201(a)):

(a) First preference: Unmarried sons and daughters of U.S. citizens: Not more than 20 percent of the overall annual limitation in any fiscal year.

(b) Second preference: Spouses and unmarried sons and daughters of aliens lawfully admitted for permanent residence: 26 percent of the overall limitation, plus any not required for first preference.

(c) Third preference: Members of the professions and scientists and artists of exceptional ability: 10 percent of the overall limitation.

(d) Fourth preference: Married sons and daughters of U.S. citizens: 10 percent of the overall limitation, plus any not required for the first three preferences.

(e) Fifth preference: Brothers and sisters of U.S. citizens 21 years of age or over: 24 percent of the overall limitation, plus any not required for the first four preferences.

(f) Sixth preference: Skilled and unskilled workers in occupations for which labor is in short supply in the United States: 10 percent of the overall limitation.

(g) Nonpreference: Any applicant not entitled to one of the above preferences: Any numbers not required for preference applicants.

(4) NP-5 Nonpreference: 5,000 nonpreference numbers are provided in each of fiscal years 1987 and 1988, and 15,000 in each of fiscal years 1989 and 1990 outside the numerical limitation in Section 201(a) but subject to the limitation in Section 202, such numbers to be first made available to natives of countries from which immigration to the United States was adversely affected by P.L. 89-236, the Act of Oct. 3, 1965, which revised the basis of legal immigration to the United States; (Sec. 314 of P.L. 99-603; Section 2 of P.L. 100-658). Further information on the NP-5 nonpreference visa category can be found in Appendix VII. B. 5.

(5) Visas to immigrants from underrepresented countries to enhance diversity in immigration: Section 3 of P.L. 100-658 provides 10,000 numbers in each of fiscal years 1990 and 1991, outside the numerical limitation in Section 201(a) but subject to the per-country limitation in Section 202, for natives of "underrepresented countries". Underrepresented country is defined in the law as a foreign state natives of which used, during fiscal year 1988, less than 25 percent of the maximum number of preference immigrant visa numbers available to it under Section 202(a) of the INA. All foreign states listed in Appendix VII. B. 3. *EXCEPT* the following meet this definition of "underrepresented": CHINA-mainland born and Taiwan born, COLOMBIA, DOMINICAN REPUBLIC, EL SALVADOR, GREAT BRITAIN AND NORTHERN IRELAND, GUYANA, HAITI, INDIA, JAMAICA, KOREA, MEXICO and PHILIPPINES. These visas are to be made available strictly in a random order among applicants who qualify during an application period established by the Secretary of State.

(6) Applicability of section 212(a)(14), the labor certification requirement, is explicitly restricted to applicants within the 3rd, 6th, and nonpreference categories. Section 212(a)(14) does not apply to applicants in the NP-5 nonpreference category, or to the visas for the underrepresented countries category, (Sec. 314 of P.L. 99-603; Section 3 of P.L. 100-658).

(7) A spouse or child accompanying or following to join any preference or nonpreference applicant may be classified within the same category if a visa is not otherwise immediately available; (Sec. 203(a)(8)).

(8) Immigrants who acquire permanent resident status under Section 244 and certain other provisions of law may also be chargeable to the numerical limitations of Secs. 201(a) and 202(a).

III. Related provisions:

A. The Immigration Marriage Fraud Amendments of 1986 (P.L. 99-639, Nov. 10, 1986) amended the Immigration and Nationality Act to establish a conditional immigration status for A) an alien spouse of a United States citizen or of a lawful permanent resident and B) an alien son or daughter, whose basis for immigration is a marriage of the petitioner which was entered into less than 24 months before such spouse or son or daughter is admitted to the United States as a permanent resident. To remove the conditional status, a petition must ordinarily be submitted to the Immigration and Naturalization Service by the alien and the petitioning spouse within 90 days preceding the second anniversary of conditional status; (Sec. 216).

B. Adjustment of status in the United States from nonimmigrant to that of a permanent resident may be obtained, subject to certain conditions, through the Immigration and Naturalization Service; (Section 245).

C. Parents of resident aliens (not being entitled to a preference) are subject to Section 212(a)(14).

B. ALLOCATION OF IMMIGRANT VISA NUMBERS

1. The Operation of the Immigrant Numerical Control System

(Source: Visa Office, Department of State, as of March 15, 1989)

The Department of State is responsible for administering the provisions of the Immigration and Nationality Act (INA) relating to the numerical limitations on immigrant visa issuances.

HOW THE SYSTEM OPERATES:

At the beginning of each month, the Visa Office (VO) receives a report from each consular post listing totals of documentarily qualified immigrant visa applicants in categories subject to numerical limitation. Cases are grouped by foreign state chargeability/preference/priority date. No names are reported. The Immigration and Naturalization Service submits similar data to VO for adjustment of status cases at district offices in the U.S. During the first week of each month, this documentarily qualified demand is tabulated.

VO subdivides the annual preference and foreign state limitations which are specified by the Immigration and Nationality Act (INA) into twelve monthly allotments. The totals of documentarily qualified applicants reported to VO are compared each month with the numbers available for the next regular allotment and numbers are allocated to reported applicants in order of their priority dates, the oldest dates first.

If there are sufficient numbers in a particular category to satisfy all reported documentarily qualified demand, the category is considered "current".Whenever the total of documentarily qualified applicants in a category exceeds the supply of numbers available for allotment for the particular month, the category is considered to be "oversubscribed" and a cut-off date is established. The cut-off date is the priority date of the first documentarily qualified applicant who could *not* be accommodated for a visa number. Only persons with a priority date *earlier* than a cut-off date are entitled to allotment of a visa number. The cut-off dates are ordinarily the 1st, 8th, 15th, and 22nd of a month, since VO groups demand for numbers under these dates. (Priority dates of the first through seventh of a month are grouped under the 1st, the eighth through the fourteenth under the 8th, etc.) The exception is an oversubscribed dependent area, for which demand is not grouped but rather recorded by actual priority date.

By the second week of each month, cut-off dates are set for the following month. The dates, along with visa allotments for use during that month, are immediately transmitted to consular posts. The cut-off dates are simultaneously made public; VO has a recorded telephone message at (202) 647-0508 which is updated whenever new cut-off dates are set. This information is then published in VO's monthly Visa Availability Bulletin. (Requests for inclusion on the Visa Bulletin mailing list may be addressed to: Visa Bulletin, Visa Office, Department of State, Washington, D.C. 20520).

DEFINITION OF SOME TERMS:

Allotment: The allocation of an immigrant number to a consular office or to INS. This number may be used for visa issuance or adjustment of status, or may be returned unused to VO for reincorporation into the pool of numbers available for later allocation during the fiscal year.

Foreign State Chargeability: Ordinarily an immigrant is chargeable for visa purposes to the numerical limitation for the foreign state or dependent area of birth. Exceptions are provided for a *child* (unmarried and under 21 years of age) or *spouse* accompanying or following to join a principal to prevent the separation of family members, as well as for an applicant born in the U.S. or in a foreign state of which neither parent was a native or resident. Alternate chargeability is desirable when the visa cut-off date for the foreign state of birth of a parent or spouse is more advantageous than that of the applicant's foreign state of birth. (Section 202; 22 CFR 42.12). The key determinant of foreign state chargeability is place of birth, not nationality.

Documentarily Qualified: The applicant has obtained all documents specified by the consular officer as sufficient to meet the formal visa application requirements, and necessary processing procedures of the consular office have been completed.

BACKGROUND INFORMATION ON THE SYSTEM AND CLARIFICATION OF SOME FREQUENTLY MISUNDERSTOOD POINTS:

Applicants entitled to immigrant status become documentarily qualified at their own initiative and convenience. By no means has every applicant with a priority date earlier than a prevailing cut-off date been processed for final visa action. On the contrary, visa allotments are made only on the basis of the total applicants reported documentarily qualified each month. Demand for visa numbers can fluctuate from one month to another, with the inevitable impact on cut-off dates.

If an applicant is reported documentarily qualified but allocation of a visa number is not possible because of a cut-off date, the demand is recorded at VO and an allocation is made as soon as the applicable cut-off date advances beyond the applicant's priority date. There is no need for such applicant to be reported a second time.

Visa numbers are always allotted for *all* documentarily qualified applicants with a priority date *before* the relevant cut-off date, as long as the case had been reported to VO in time to be included in the monthly calculation of visa availability. There is no exception to this principle. Failure of visa number receipt by the processing office could mean that the request was not dispatched in time to reach VO for the monthly allocation cycle, or that information on the request was incomplete or inaccurate (e.g., incorrect priority date).

Allocations outside the regular monthly cycle are possible in emergency or exceptional cases, but only at the request of the office processing the case. Note that once the retrogression of a cut-off date is announced, extraordinary requests for additional numbers from consular posts can be honored by VO only if the applicant's priority date is earlier than the retrogressed cut-off date.

Not all numbers allocated are actually used for visa issuance; some are returned to VO and are reincorporated into the pool of numbers available for later allocation during the fiscal year. The rate of return of unused numbers may fluctuate from month to month, just as demand may fluctuate. Lower returns mean fewer numbers available for subsequent reallocation. Fluctuations can cause cut-off date movement to slow, stop, or even retrogress. Retrogression is particularly possible near the end of the fiscal year as visa issuance approaches the annual limitations.

Visa issuances to any single country may not exceed the 20,000/country cap. Applicants compete for visas primarily on a worldwide basis. The country limitation serves to avoid monopolization of virtually all the annual limitation by applicants from only a few countries. The 20,000 limitation is not a quota to which any particular country is entitled, however. Clearly all countries could not receive 20,000 visas, since the worldwide 270,000 annual limitation would not permit visa issuances anywhere close to such a total.

Applicability of Section 202(e) of the INA: Allocation prorating is required by section 202(e) when visas have been made available to the chargeability area limit during the preceding fiscal year, that is, at any given point the total of visa numbers allocated through the course of a year, minus any unused numbers returned prior to that point, reaches the applicable numerical limitation. Numbers returned unused subsequently will have no impact on the applicability of section 202(e), as long as visas made available had at some point reached the full numerical limitation. Allotments for an oversubscribed chargeability area are not necessarily prorated among the six preferences in each fiscal year, however. If the reported demand for numbers within one or more preferences of an oversubscribed country is insufficient to make use of all numbers set aside under the terms of section 202(e), the maximum number of visas would not be made available to the particular oversubscribed chargeability area and the prorating scheme could not apply during the following allocation year. (Note that cut-off dates for oversubscribed areas cannot be later than worldwide cut-off dates, if any, for the respective preferences.) A formal determination of the applicability of allocation prorating under section 202(e) to an oversubscribed chargeability area is made by VO each September prior to the allocation of numbers for the first month of the new fiscal year.

VO projections of future availability: From time to time VO provides projections based upon available data and expectations. Such projections—while reflecting anticipated developments—cannot be taken as a guarantee of future availability, however. Dates must be set each month based on reported demand and available numbers.

2. IMMIGRANT VISA PROCESSING CHART [1]

(Source: Visa Office, Department of State; as of March 15, 1989)

	Action on behalf of alien by interested relative		Labor certification actions								
			Action by alien or employer				Action by Consul			Action by Labor Department	
Classes of immigrants	Complete form I-130 and submit to INS	Complete form I-600 and submit to INS	Complete form OF-222 (Preliminary Questionnaire) and submit to Consul with supporting documents (if any)	Complete form MA-7-50A and submit to Consul with supporting documents	Complete forms MA-7-50 for submission to Department of Labor [3]	Complete form I-140 and submit to INS [4]	Determines from form OF-222 and supporting documents whether alien qualifies as a special immigrant	Determines from forms MA-7-50A and supporting documents whether alien qualifies under Schedule A	Determines from form OF-222 and supporting documents whether alien is exempt from the labor certification requirements	Adjudicates forms MA-7-50 and notifies interested person(s)	Returns approved forms MA-7-50 if form I-140 to be filed or forwards approved forms MA-7-50 to Consul, if form I-140 not to be filed
Not subject to numerical limitations:											
Immediate relatives:											
Spouse and/or child of U.S. citizen	X										
Orphan adopted abroad or to be adopted in United States by U.S. citizen		X									
Parent of U.S. citizen at least 21 years of age	X										
Special immigrants:											
Returning resident			X				X				
Certain persons who lost U.S. citizenship			X				X				
Minister of religion			X				X				
Certain employees or former employees of U.S. Government			X				X				
Certain retired employees (and certain of their relatives) of certain international organizations			X				X				
Subject to numerical limitation:											
Unmarried son or daughter of U.S. citizen and child of such alien	X										

Spouse and/or unmarried son or daughter of alien resident and child of such alien	X								
Professional (schedule A) and spouse and/or child of such alien		X	X		X	X			
Professional (other) and spouse and/or child of such alien		X		X	X			X	X
Married son or daughter of U.S. citizen and spouse and/or child of such alien	X								
Brother or sister of U.S. citizen at least 21 years of age and spouse and/or child of such alien	X								
Skilled or unskilled worker and spouse and/or child of such alien		X		X	X			X	X
All other aliens who will enter the labor market		X		X	X			X	X
Alien who will not enter the labor market		X					X		

Classes of immigrants	Action by INS [a]	Action by Consul			Action by applicant		Action by Consul			
	Adjudicates petitions, notifies interested person(s), and forwards approved petitions to Consul	Creates record, including priority date if applicable, when entitlement to immigrant status established by petition, labor certification, or other appropriate evidence	Requests aliens for whom visa numbers are available or not needed to submit biographic data promptly and inform Consul when specified documents assembled	Informs aliens for whom visa numbers are not available that processing will be delayed	Furnishes Consul data requested and assembles other documents	Notifies Consul when documents obtained	Reports all documentarily qualified applicants' priority dates and foreign state chargeability to Visa Office monthly	Receives monthly allotment of visa numbers for aliens whose priority dates were reached within numerical limits	Schedules appointment, notifies alien date of interview, and furnishes application forms for completion. Informs alien regarding medical exam	Reviews application and assembled documents, interviews applicant, issues visa or explains reason for nonissuance
Not subject to numerical limitation:										
Immediate relatives:										
Spouse and/or child or U.S. citizen	X	X	X		X	X			X	X
Orphan adopted abroad or to be adopted in United States by U.S. citizen	X	X	X		X	X			X	X
Parent of U.S. citizen at least 21 years of age	X	X	X		X	X			X	X
Special immigrants:										
Returning resident		X	X		X	X			X	X
Certain persons who lost U.S. citizenship		X	X		X	X			X	X
Minister of religion		X	X		X	X			X	X
Certain employees of former employees of U.S. Government		X	X		X	X			X	X
Certain retired employees (and certain of their relatives) of certain international organizations		X	X		X	X			X	X

Subject to numerical limitation:										
Unmarried son or daughter of U.S. citizen and child of such alien	X	X	X	X	X	X	X	X	X	X
Spouse and/or unmarried son or daughter of alien resident and child of such alien	X	X	X	X	X	X	X	X	X	X
Professional (schedule A) and spouse and/or child of such alien		X	X	X	X	X	X	X	X	X
Professional (other) and spouse and/or child of such alien		X	X	X	X	X	X	X	X	X
Married son or daughter of U.S. citizen and spouse and/or child of such alien	X	X	X	X	X	X	X	X	X	X
Brother or sister of U.S. citizen at least 21 years of age and spouse and/or child of such alien	X	X	X	X	X	X	X	X	X	X
Skilled or unskilled worker and spouse and/or child of such alien		X	X	X	X	X	X	X	X	X
All other aliens who will enter the labor market		X	X	X	X	X	X	X	X	X
Aliens who will not enter the labor market		X	X	X	X	X	X	X	X	X

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[1] Certain aliens in the United States may apply to the INS for adjustment of status to that of a permanent resident rather than apply to a Consular Officer for an immigrant visa. For information concerning the requirements and procedures to be followed, consult the nearest district office of INS.

[2] INS denotes the Immigration and Naturalization Service.

[3] Both MA-7-50A and MA-7-50B. If alien has live-at-work job offer, include MA-7-50C.

[4] When nonpreference category for alien's foreign state chargeability (generally, country or birth) is oversubscribed; otherwise, optional. Schedule A applicant requires job offer to file form I-140.

3. List of Foreign States Subject to Annual Limitation of 20,000 Immigrants Under Section 202(a) of the Immigration and Nationality Act

(Source: Visa Office, Department of State; as of March 15, 1989)

Afghanistan
Albania*
Algeria*
Andorra
Angola
Antigua and Barbuda
Argentina*
Australia[1]
Austria*
Bahamas, The
Bahrain
Bangladesh
Barbados
Belgium*
Belize
Benin
Bhutan
Bolivia
Botswana
Brazil
Brunei
Bulgaria
Burkina
Burma
Burundi
Cambodia
Cameroon
Canada*
Cape Verde
Central African Republic
Chad
Chile
China[2]
  -mainland born[6]
  -Taiwan born[6]
Colombia[6]
Comoros
Congo
Costa Rica
Cuba
Cyprus
Czechoslovakia*
Denmark* [1]
Djibouti
Dominica
Dominican Republic[6]
Ecuador
Egypt[3]
El Salvador[6]
Equatorial Guinea
Estonia*
Ethiopia
Fiji
Finland*
France* [1]
Gabon
Gambia, The
German Democratic Republic (East)*
Germany, Federal Republic of (West)*
Ghana
Great Britain and Northern Ireland (United Kingdom)* [1,6]
Greece
Grenada
Guatemala
Guinea
Guinea-Bissau
Guyana[6]
Haiti[6]
Honduras
Hungary*
Iceland*
India[4,6]
Indonesia*
Iran
Iraq
Ireland*
Israel[3]
Italy*
Ivory Coast
Jamaica[6]
Japan* [5]
Jordan[3]
Kenya
Kiribati
Korea[6]
Kuwait
Laos
Latvia*
Lebanon
Lesotho
Liberia
Libya
Liechtenstein*
Lithuania*
Luxembourg*
Madagascar
Malawi
Malaysia
Maldives
Mali
Malta
Marshall Islands, Republic of
Mauritania
Mauritius
Mexico[6]
Micronesia, Federated States of
Monaco*
Mongolia
Morocco
Mozambique
Namibia
Nauru
Nepal
Netherlands* [1]
New Zealand[1]
Nicaragua
Niger
Nigeria
Norway*
Oman
Pacific Islands, Trust Territory of the (Palau)
Pakistan[4]
Panama
Papua New Guinea
Paraguay
Peru
Philippines[6]
Poland*
Portugal[1,6]
Qatar
Romania
Rwanda
St. Kitts and Nevis
St. Lucia
St. Vincent and the Grenandines
San Marino*
Sao Tome and Principe
Saudi Arabia
Senegal
Seychelles
Sierra Leone
Singapore
Solomon Islands
Somalia
South Africa

Soviet Union (See Union of Soviet Socialist Republics)
Spain[1,7]
Sri Lanka
Sudan
Suriname
Swaziland
Sweden[*]
Switzerland[*]
Syria[3]
Tanzania
Thailand
Togo
Tonga
Trinidad and Tobago
Tunisia[*]
Turkey
Tuvalu
Uganda
Union of Soviet Socialist Republics
United Arab Emirates
Uruguay
Vanuatu
Vatican City
Venezuela
Vietnam
Western Samoa
Yemen (Aden)
Yemen (Sanaa)
Yugoslavia
Zaire
Zambia
Zimbabwe

[*] Foreign states identified as "adversely affected" for purposes of implementing section 314 of the Immigration Reform and Control Act of 1986 (P.L. 99-603).

[1] Foreign states which have dependent areas.

[2] Persons born in Manchuria, Inner Mongolia, Sinkiang, and Tibet are chargeable to the limitation for China-mainland.

[3] Persons born in the areas administered prior to June 1967 by Israel, Jordan, Egypt, and Syria are chargeable, respectively, to the foreign state limitation for Israel, Jordan, Egypt, and Syria.

[4] Persons born in Junagadh and that portion of Jammu and Kashmir controlled by India are chargeable to the foreign state limitation for India. Persons born in that portion of Jammu and Kashmir controlled by Pakistan are chargeable to the foreign state limitation for Pakistan.

[5] Persons born in the Habomai Islands, Shikotan, Kunashiri, Etorofu, and Southern Sakhalin are chargeable to the foreign state limitation for Japan.

[6] Madeira and the Azores are included as an integral part of Portugal.

[7] The Balearic Islands, the Canary Islands, and the following areas of Spanish sovereignty in North Africa—Ceuta, Islas Chafarinas, Melilla, Penon de Alhucemas, and Penon de Velez de la Gomera—are considered as integral parts of Spain.

[8] These foreign states are *not* treated as "underrepresented" for purposes of section 3 of Public Law 100-658. All other foreign states listed are treated as "underrepresented".

4. List of Dependent Areas Subject to Annual Limitation of 5000[*] Immigrants under Section 202(c) of the Immigration and Nationality Act

(Source: Visa Office, Department of State; as of March 15, 1989)

GOVERNING COUNTRY and Dependent Areas

AUSTRALIA
- Christmas Island
- Cocos (Keeling) Islands

DENMARK
- Greenland

FRANCE
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Guadeloupe[1,2]
- Martinique
- New Caledonia[2]
- Reunion
- St. Pierre and Miquelon
- Wallis and Futuna

GREAT BRITAIN AND NORTHERN IRELAND
- Anguilla
- Bermuda[2]
- British Virgin Islands

GREAT BRITAIN AND NORTHERN IRELAND (continued)
- Cayman Islands
- Falkland Islands
- Gilbraltar[2]
- Hong Kong
- Montserrat
- Pitcairn
- St. Helena
- Turks and Caicos Islands

NETHERLANDS
- Netherlands Antilles[1]
- Aruba

NEW ZEALAND
- Cook Islands
- Niue

PORTUGAL
- Macao

SPAIN
- Western Sahara

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[*] The Immigration Reform and Control Act of 1986 (Public Law 99-603 of 11/6/86) amended section 202(c) of the Immigration and Nationality Act to increase the annual dependent area limitation from 600 to 5,000 immigrants. This amendment became effective October 1, 1987.

[1] Persons born in the portion of St. Martin controlled by France are chargeable to Guadeloupe; those born in the Netherlands controlled portion are chargeable to the Netherlands Antilles.

[2] Dependent territories identified as "adversely affected" for purposes of implementing section 314 of the Immigration Reform and Control Act of 1986 (P.L. 99-603).

5. NP-5 Nonpreference Immigrant Numbers

(Source: Visa Office, Department of State, as of March 15, 1989)

Section 314 of the Immigration Reform and Control Act of 1986 (P.L. 99-603) made available 5,000 visa numbers outside the 270,000 annual numerical limitation in section 201(a) in each of fiscal years 1987 and 1988 to nonpreference immigrants. In each of fiscal years 1989 and 1990 a further 15,000 numbers were provided for the category by section 2 of P.L. 100-658.

Under section 314 such visa numbers were to be first made available to applicants from areas the immigration of whose natives to the United States was "adversely affected" by P.L. 89-236 (the Act of October 3, 1965 which revised the basis of legal immigration to the United States), in the order in which they qualified for status after enactment of the 1986 Act. The per-country numerical limitations of section 202 of the INA apply to the allocation of numbers in this category. However, immigrants in the nonpreference visa category established by this provision were exempt from the labor certification requirement of section 212(a)(14) of the INA.

The Department of State used the following definition for the determination of "adversely affected" areas: Foreign chargeability areas whose average annual rate of immigration to the United States during the period from July 1, 1966 to September 30, 1985 (i.e., during the full fiscal years after enactment of P.L. 89-236) was less than their average annual rate of immigration to the United States during the period from July 1, 1953 to June 30, 1965 (i.e., the full fiscal years between enactment of the INA in 1952 and P.L. 89-236 in 1965). A foreign state's average annual rate of immigration during these periods was determined by totalling the number of natives of the foreign state who were admitted to the United States for permanent residence (as reflected in annual figures of immigrants reported by the Immigration and Naturalization Service for each such period) and dividing each total by the number of fiscal years in the period; for purposes of these calculations each dependent area of a foreign state was considered separately from the governing country.

The following chargeability areas were identified as "adversely affected" for purposes of implementing Section 314: ALBANIA, ALGERIA, ARGENTINA, AUSTRIA, BELGIUM, BERMUDA, CANADA, CZECHOSLOVAKIA, DENMARK, ESTONIA, FINLAND, FRANCE, GERMAN DEMOCRATIC REPUBLIC, FEDERAL REPUBLIC OF GERMANY, GIBRALTAR, GREAT BRITAIN AND NORTHERN IRELAND, GUADELOUPE, HUNGARY, ICELAND, INDONESIA, IRELAND, ITALY, JAPAN, LATVIA, LIECHTENSTEIN, LITHUANIA, LUXEMBOURG, MONACO, NEW CALEDONIA, NETHERLANDS, NORWAY, POLAND, SAN MARINO, SWEDEN, SWITZERLAND, AND TUNISIA. Since the heavy demand for registration by persons born in the "adversely affected" areas provided sufficient registrants to exhaust all of the visa numbers available under this provision, no numbers have been available for applicants born in other areas.

The Department of State accepted applications for registration for this nonpreference status (designated by the visa classification symbol NP-5) between January 21 and 27, 1987. Such applications, which were mailed to a specific post office box in Washington, D.C., were arranged in chronological order of receipt by the Department of State and were then formally registered by the Department of State and assigned priority dates. Approximately one million pieces of mail were received between January 21 and 27. Initially, twenty-five thousand NP-5 applicants were registered for status by the Department of State. March 5, 1987 was the last day on which NP-5 registration requests were assigned priority dates during the period of case file creation in 1987. All of the mail requesting NP-5 status sent to the Department in January 1987 has been maintained in the order of receipt from the U.S. Postal Service and will, as specifically required by P.L. 100-658, serve as the basis for additional registrations for status necessary to permit full use of the numbers provided by that Act. Registration of requests for NP-5 status will resume with the next letter in line at the point where processing in 1987 was suspended.

To facilitate the process of distributing NP-5 numbers, priority dates were recorded by day, hour, and minute. The Department of State forwarded the records of registered applicants to consular posts with instructions for them to notify the applicants.

C. Treaties Containing Treaty Trader and Treaty Investor Provisions in Effect Between the United States and Other Countries

(Source: Visa Office, Department of State; as of March 15, 1989)

ARGENTINA
Treaty of friendship, commerce, and navigation (Article II)
Entered into force December 20, 1854.
10 Stat. 1005; TS 4; 5 Bevans 61.

AUSTRIA
Treaty of friendship, commerce, and consular rights (Article I).
Entered into force May 27, 1931.
47 Stat. 1876; TS 838; 5 Bevans 341; 118 LNTS 241.

BELGIUM
Treaty of friendship, establishment and navigation (Article II).
Entered into force October 3, 1963 (Treaty of 1875 in force prior to this date).
14 UST 1284; TIAS 5432; 480 UNTS 149.

BOLIVIA*
Treaty of peace, friendship, commerce, and navigation (Article III).
Entered into force November 9, 1862.
12 Stat. 1003; TS 32; 5 Bevans 721.

BRUNEI*
Treaty of peace, friendship, commerce, and navigation (Article II).
Entered into force July 11, 1853.
10 Stat. 909; TS 33; 5 Bevans 1080.

CANADA* [1]
Public Law 100-449 (Section 307(a)).
Entered into force January 1, 1989.
102 Stat. 1851; P.L. 100-449.

CHINA (Taiwan) [2]
Treaty of friendship, commerce, and navigation (Article II).
Entered into force November 30, 1948.
63 Stat. 1299; TIAS 1871; 6 Bevans 761; 25 UNTS 69.

COLOMBIA
Treaty of peace, amity, navigation, and commerce (Article III).
Entered into force June 10, 1848.
9 Stat. 881; TS 54; 6 Bevans 868.

COSTA RICA
Treaty of friendship, commerce, and navigation (Article II).
Entered into force May 26, 1852.
10 Stat. 916; TS 62; 6 Bevans 1013.

DENMARK* [3]
Treaty of friendship, commerce, and navigation (Article II).
Entered into force July 30, 1961 (Convention of 1826 was in force prior to this date).
12 UST 908; TIAS 4797; 421 UNTS 105.

ESTONIA*
Treaty of friendship, commerce, and consular rights (Article I).
Entered into force May 22, 1926.
44 Stat. 2379; TS 736; 7 Bevans 620; 50 LNTS 13.

ETHIOPIA
Treaty of amity and economic relations (Article VI).
Entered into force October 8, 1953.
4 UST 2134; TIAS 2864; 206 UNTS 41.

FINLAND*
Treaty of friendship, commerce, and consular rights (Article I).
Entered into force August 10, 1934.
49 Stat. 2659; TS 868; 7 Bevans 718; 152 LNTS 45.

FRANCE [4]
Convention of establishment (Article II).
Entered into force December 21, 1960.
11 UST 2398; TIAS 4625; 401 UNTS 75.

GERMANY (FRG) [5]
Treaty of friendship, commerce, and navigation.
Entered into force July 14, 1956.
7 UST 1839; TIAS 3593; 273 UNTS 3.

GREECE*
Treaty of friendship, commerce, and navigation (Article II).
Entered into force October 13, 1954.
5 UST 1829; TIAS 3057; 224 UNTS 279.

GRENADA**
Bilateral investment treaty (Article II).
Entered into force March 3, 1989.
S. Treaty Doc. No. 25, 99th Cong. 2d Sess. (1986).

HONDURAS
Treaty of friendship, commerce, and consular rights (Article I).
Entered into force July 19, 1928.
45 Stat. 2618; TS 764; 8 Bevans 905; 87 LNTS 421.

IRAN
Treaty of amity, economic relations and consular rights (Article II).
Entered into force June 16, 1957.
8 UST 899; TIAS 3853; 284 UNTS 93.

IRELAND*
Treaty of friendship, commerce, and navigation (Article I).
Entered into force September 14, 1950.
1 UST 785; TIAS 2155; 206 UNTS 269.

ISRAEL*
Treaty of friendship, commerce, and navigation (Article II).
Entered into force April 3, 1954.
5 UST 550; TIAS 2948; 219 UNTS 237.

ITALY
Treaty of friendship, commerce and navigation (Article I and Article XXIV, paragraph 7).
Entered into force July 26, 1949.
63 Stat. 2255; TIAS 1965; 9 Bevans 261; 79 UNTS 171.

JAPAN [6]
Treaty of friendship, commerce, and navigation (Article I).
Entered into force October 30, 1953.
4 UST 2063; TIAS 2863; 206 UNTS 143.

KOREA
Treaty of friendship, commerce and navigation (Article II).
Entered into force November 7, 1957.
8 UST 2217; TIAS 3947; 302 UNTS 281.

LATVIA*
Treaty of friendship, commerce, and consular rights (Article I).
Entered into force July 25, 1928.
45 Stat. 2641; TS 765; 9 Bevans 531; 80 LNTS 35.

LIBERIA
Treaty of friendship, commerce and navigation (Article I).
Entered into force November 21, 1939.
54 Stat. 1739; TS 956; 9 Bevans 595; 201 LNTS 163.

LUXEMBOURG
Treaty of friendship, establishment and navigation (Article II).
Entered into force March 28, 1963.
14 UST 251; TIAS 5306; 474 UNTS 3.

NETHERLANDS [7]
Treaty of friendship, commerce and navigation (Article II).
Entered into force December 5, 1957.
8 UST 2043; TIAS 3942; 285 UNTS 231.

NORWAY [8]
Treaty of commerce and navigation (Article I).
Entered into force January 18, 1828.
8 Stat. 346; TS 348; 11 Bevans 876.
Treaty of friendship, commerce, and consular rights, etc.
Entered into force September 13, 1932.
47 Stat. 2135; TS 852; 10 Bevans 481; 134 LNTS 81.

OMAN
Treaty of amity, economic relations and consular rights (Article II).
Entered into force June 11, 1960.
11 UST 1835; TIAS 4530; 380 UNTS 181.

PAKISTAN
Treaty of friendship and commerce.
Entered into force February 12, 1961.
12 UST 110; TIAS 4683; 404 UNTS 259.

PARAGUAY
Treaty of friendship, commerce, and navigation (Article II).
Entered into force March 7, 1860.
12 Stat. 1091; TS 272; 10 Bevans 888.

PHILIPPINES
On September 6, 1955, pursuant to Article V of the revised Trade Agreement between the United States and the Republic of the Philippines, notes were exchenged between the two Governments implementing the provisions of the Act of June 18, 1954, which renders Philippine nationals eligible for nonimmigrant classification as treaty traders and treaty investors under the provisions of INA 101(a)(15)(E) although there is no commercial treaty in force between the two countries.
Entered into force September 6, 1955.
6 UST 3030; TIAS 3349; 238 UNTS 109.

SPAIN[9]
Treaty of friendship and general relations (Article II).
Entered into force April 14, 1903.
33 Stat. 2105; TS 422; 11 Bevans 628.

SURINAME[10]
Treaty of friendship, commerce and navigation (Article II).
Entered into force December 5, 1957.
8 UST 2043; TIAS 3942; 285 UNTS 231.

SWITZERLAND
Convention of friendship, commerce, and extradition (Article I).
Entered into force November 8, 1855.
11 Stat. 587; TS 353; 11 Bevans 894.

THAILAND
Treaty of amity and economic relations.
Entered into force June 8, 1968.
19 UST 5843; TIAS 6540; 652 UNTS 253.

TOGO
Treaty of amity and economic relations (Article I).
Entered into force February 5, 1967.
18 UST 1; TIAS 6193; 680 UNTS 159.

TURKEY*
Treaty of establishment and sojourn (Article I).
Entered into force February 15, 1933.
47 Stat. 2432; TS 859; 11 Bevans 1127; 138 LNTS 345.

UNITED KINGDOM[11]
Convention to regulate commerce (Article I).
Entered into force July 3, 1815.
8 Stat. 228; TS 110; 12 Bevans 49.

YUGOSLAVIA
Treaty of commerce (Article I).
Entered into force November 15, 1882.
22 Stat. 963; TS 319; 12 Bevans 1227.

*These treaties contain only treaty trader provisions and allow only E-1 issuance, not E-2.

**This treaty contains only treaty investor provisions and allows only E-2 issuance, not E-1.

[1] **CANADA.** On September 28, 1988, the President signed Public Law 100-449, which implements the provisions of the United States-Canada Free-Trade Agreement, subject to ratification by the Canadian parliament. Section 307(a) of that law made section 101(a)(15)(E) of the INA applicable to Canadian nationals. The Canadian parliament ratified the agreement to be effective January 1, 1989, which also became the effective date of the provisions of section 307(a) of P.L. 100-449. Since the agreement is not a treaty, the public law governs.

[2] **CHINA (Taiwan).** Pursuant to Section 6 of the Taiwan Relations Act, P.L. 96-8, 93 Stat. 14, and Executive Order 12143, 44 F.R. 37191, this agreement which was concluded with the Taiwan authorities prior to January 1, 1979, is adminstered on a nongovernmental basis by the American Institute in Taiwan, a nonprofit District of Columbia corporation, and constitutes neither recognition of the Taiwan authorities nor the continuation of any official relationship with Taiwan.

[3] **DENMARK.** The convention of 1826 does not apply to the Faroe Islands or Greenland. The Treaty which entered into force in 1961 does not apply to Greenland.

[4] **FRANCE.** The Treaty which entered into force in 1960 applies to the departments of Martinique, Guadeloupe, French Guiana, and Reunion.

[5] **GERMANY (FRG).** The Treaty which entered into force in 1956 now applies to Berlin, as defined in Article XXVI thereof.

[6] **JAPAN.** The Treaty which entered into force in 1953 was made applicable to the Bonin Islands on June 26, 1968, and to the Ryukyu Islands on May 15, 1972.

[7] **NETHERLANDS.**The Treaty which entered into force in 1957 is applicable to Aruba and Netherlands Antilles.

[8] **NORWAY.** The Treaty which entered into force in 1932 does not apply to Svalbard (Spitzbergen and certain lesser islands).

[9] **SPAIN.** The Treaty which entered into force in 1903 is applicable to all territories.

[10] **SURINAME.** The Treaty with the Netherlands which entered into force December 5, 1957, was made applicable to Suriname on February 10, 1963.

[11] **UNITED KINGDOM.** The Convention which entered into force in 1815 applies only to British territory in Europe (the British Isles (except the Republic of Ireland), the Channel Islands and Gibraltar) and to "inhabitants" of such territory. This term, as used in the Convention, means "one who resides actually and permanently in a given place, and has his domicile there". Also, in order to qualify for treaty trader or treaty investor status under this treaty, the alien must be a national of the United Kingdom. Individuals having the nationality of members of the Commonwealth other than the United Kingdom whose laws accord a separate nationality, such as Australia, do not quality for treaty trader or treaty investor status under this treaty.

D. VISA SYMBOLS

(Source: Visa Office, Department of State; as of March 15, 1989)

The following symbols are used in issuing visas to nonimmigrants and immigrants proceeding to the United States. Unless otherwise stated, the section of law cited refers to the Immigration and Nationality Act.

Nonimmigrants

Visa Symbol	Class	Section of law
A-1	Ambassador, public minister, career diplomat or consular officer, and immediate family.	101(a)(15)(A)(i)
A-2	Other foreign government official or employee, and immediate family.	101(a)(15)(A)(ii)
A-3	Attendant, servant, or personal employee of A-1 or A-2, and immediate family.	101(a)(15)(A)(iii)
B-1	Temporary visitor for business	101(a)(15)(B)
B-2	Temporary visitor for pleasure	101(a)(15)(B)
B-1/B-2	Temporary visitor for business and pleasure	101(a)(15)(B)
C-1	Alien in transit	101(a)(15)(C)
C-2	Alien in transit to United Nations Headquarters district under Section 11 (3), (4), or (5) of the Headquarters Agreement.	101(a)(15)(C)
C-3	Foreign government official, immediate family, attendant, servant or personal employee, in transit.	212(d)(8)
D	Crewmember (sea or air)	101(a)(15)(D)
E-1	Treaty trader, spouse and children	101(a)(15)(E)(i)
E-2	Treaty investor, spouse and children	101(a)(15)(E)(ii)
F-1	Student	101(a)(15)(F)(i)
F-2	Spouse or child of student	101(a)(15)(F)(ii)
G-1	Principal resident representative of recognized foreign member government to international organization, staff, and immediate family.	101(a)(15)(G)(i)
G-2	Other representative of recognized foreign member government to international organization, and immediate family.	101(a)(15)(G)(ii)
G-3	Representative of nonrecognized or nonmember foreign government to international organization, and immediate family.	101(a)(15)(G)(iii)
G-4	International organization officer or employee, and immediate family.	101(a)(15)(G)(iv)
G-5	Attendant, servant, or personal employee of G-1 through G-4 and immediate family.	101(a)(15)(G)(v)
H-1	Temporary worker of distinguished merit and ability	101(a)(15)(H)(i)
H-2	Temporary worker performing services unavailable in the United States (Petition filed prior to June 1, 1987).	101(a)(15)(H)(ii)
H-2A	Temporary worker performing agricultural services unavailable in the United States (Petition filed on or after June 1, 1987).	101(a)(15)(H)(ii)(a)
H-2B	Temporary worker performing other services unavailable in the United States (Petition filed on or after June 1, 1987).	101(a)(15)(H)(ii)(b)
H-3	Trainee	101(a)(15)(H)(iii)

Nonimmigrants—Continued

Visa Symbol	Class	Section of law
H–4	Spouse or child of alien classified H–1, H–2A/B, or H–3.	101(a)(15)(H)(iv)
I	Representative of foreign information media, spouse and children.	101(a)(15)(I)
J–1	Exchange visitor	101(a)(15)(J)
J–2	Spouse or child of exchange visitor	101(a)(15)(J)
K–1	Fiance(e) of United States citizen	101(a)(15)(K)
K–2	Child of fiance(e) of U.S. citizen	101(a)(15)(K)
L–1	Intracompany transferee (executive, managerial, and specialized personnel continuing employment with international firm or corporation).	101(a)(15)(L)
L–2	Spouse or child of intracompany transferee	101(a)(15)(L)
M–1	Vocational student or other nonacademic student	101(a)(15)(M)
M–2	Spouse or child of alien classified M–1	101(a)(15)(M)
N–8	Parent of an alien classified SK–3 special immigrant	101(a)(15)(N)(i)
N–9	Child of N–8 or of an SK–1, SK–2 or SK–4 special immigrant.	101(a)(15)(N)(ii)
NATO–1	Principal permanent representative of member state to NATO (including any of its subsidiary bodies) resident in the U.S. and resident members of official staff; Secretary General, Assistant Secretaries General, and Executive Secretary of NATO; other permanent NATO officials of similar rank, and members of immediate family..	Art. 12, 5 UST 1094; Art. 20, 5 UST 1098
NATO–2	Other representatives of member states to NATO (including any of its subsidiary bodies) including representatives, advisers, and technical experts of delegations, and members of immediate family; dependents of members of a force entering in accordance with the pron the Status of International Military Headquarters set up pursuant to the North Atlantic Treaty, and the alien's dependents, shall be classifiable under the symbol NATO–6..	

(c) An alien attendant, servant, or personal employee of an alien classified under the symbol NATO–1, NATO–2, NATO–3, NATO–4, NATO–5, or NATO–6, and the members of the immediate family of such attendant, servant, or personal employee, shall be classified under the symbol NATO–7.]

Immigrants

Immediate Relatives

Visa Symbol	Class	Section of law
IR–1	Spouse of U.S. citizen	201(b)
CR–1	Spouse of U.S. citizen (conditional status)	201(b) & 216
IR–2	Child of U.S. citizen	201(b)
CR–2	Child of U.S. citizen (conditional status)	201(b) & 216
IR–3	Orphan adopted abroad by U.S. citizen	201(b)
IR–4	Orphan to be adopted in the United States by U.S. citizen.	201(b)
IR–5	Parent of U.S. citizen at least 21 years of age	201(b)
VI–5	Parent of U.S. citizen who acquired permanent resident status under the Virgin Islands Nonimmigrant Alien Adjustment Act.	201(b) & Sec. 2 of the Virgin Islands Nonimmigrant Alien Adjustment Act (P.L. 97–271)

Vietnam Amerasian Immigrants

Visa Symbol	Class	Section of law
AM–1	Vietnam Amerasian Principal	584(b)(1)(A) of P.L. 100–204
AM–2	Spouse/Child of AM–1	584(b)(1)(B) of P.L. 100–204
AM–3	Natural mother of unmarried AM–1 (and spouse or child of such mother), or person who has acted in effect as the mother, father, or next-of-kin of unmarried AM–1 (and spouse or child of such person).	584(b)(1)(C) of P.L. 100–204

Special Immigrants

Visa Symbol	Class	Section of law
SB–1	Returning resident	101(a)(27)(A)
SC–1	Person who lost U.S. citizenship by marriage	101(a)(27)(B) & 324(a)
SC–2	Person who lost U.S. citizenship by serving in foreign armed forces.	101(a)(27)(B) & 327
SD–1	Minister of religion	101(a)(27)(C)
SD–2	Spouse of alien classified SD–1	101(a)(27)(C)
SD–3	Child of alien classified SD–1	101(a)(27)(C)
SE–1	Certain employees or former employees of the U.S. Government abroad.	101(a)(27)(D)
SE–2	Accompanying spouse of alien classified SE–1	101(a)(27)(D)
SE–3	Accompanying child of alien classified SE–1	101(a)(27)(D)
SF–1	Certain former employees of the Panama Canal Company or Canal Zone Government.	101(a)(27)(E)
SF–2	Accompanying spouse or child of alien classified SF–1	101(a)(27)(E)
SG–1	Certain former employees of the U.S. Government in the Panama Canal Zone.	101(a)(27)(F)
SG–2	Accompanying spouse or child of alien classified SG–1	101(a)(27)(F)
SH–1	Certain former employees of the Panama Canal Company or Canal Zone Government on April 1, 1979.	101(a)(27)(G)
SH–2	Accompanying spouse or child of alien classified SH–1	101(a)(27)(G)
SJ–2	Accompanying spouse or child of an alien classified SJ (certain foreign medical graduates).	101(a)(27)(H)
SK–1	Certain retired international organization employees	101(a)(27)(I)(iii)
SK–2	Spouse of alien classified SK–1	101(a)(27)(I)(iv)
SK–3	Certain unmarried sons or daughters of international organization employees.	101(a)(27)(I)(i)
SK–4	Certain surviving spouses of deceased international organization employees.	101(a)(27)(I)(ii)

Preference Classes

Visa Symbol	Class	Section of law
P1–1	First preference: Unmarried son or daughter of U.S. citizen.	203(a)(1)
P1–2	First preference: Child of alien classified P1–1	203(a)(8)
P2–1	Second preference: Spouse of alien resident	203(a)(2)
C2–1	Second preference: Spouse of alien resident (conditional status).	203(a)(2) & 216
P2–2	Second preference: Unmarried son or daughter of alien resident.	203(a)(2)
C2–2	Second preference: Unmarried son or daughter of alien resident (conditional status).	203(a)(2) & 216
P2–3	Second preference: Child of alien classified P2–1 or P2–2.	203(a)(8)
C2–3	Second preference: Child of alien classified C2–1 or C2–2 (conditional status).	203(a)(8) & 216
P3–1	Third preference: Professional, scientist, or artist	203(a)(3)
P3–2	Third preference: Spouse of alien classified P3–1	203(a)(8)
P3–3	Third preference: Child of alien classified P3–1	203(a)(8)
P4–1	Fourth preference: Married son or daughter of U.S. citizen.	203(a)(4)
C4–1	Fourth preference: Married son or daughter of U.S. citizen (conditional status).	203(a)(4) & 216
P4–2	Fourth preference: Spouse of alien classified P4–1	203(a)(8)
C4–2	Fourth preference: Spouse of alien classified C4–1 (conditional status).	203(a)(8) & 216
P4–3	Fourth preference: Child of alien classified P4–1	203(a)(8)
C4–3	Fourth preference: Child of alien classified C4–1 (conditional status).	203(a)(8) & 216

Preference Classes—Continued

Visa Symbol	Class	Section of law
P5–1	Fifth preference: Brother or sister of U.S. citizen who is at least 21 years of age.	203(a)(5)
P5–2	Fifth preference: Spouse of alien classified P5–1	203(a)(8)
P5–3	Fifth preference: Child of alien classified P5–1	203(a)(8)
P6–1	Sixth preference: Needed skilled or unskilled worker	203(a)(6)
P6–2	Sixth preference: Spouse of alien classified P6–1	203(a)(8)
P6–3	Sixth preference: Child of alien classified P6–1	203(a)(8)

Nonpreference

Visa Symbol	Class	Section of law
NP–1	Nonpreference immigrant	203(a)(7)
NP–5	Nonpreference immigrant under Section 203(a)(7) & Sec. 314 of P.L. 99–603 & Sec. 2 of P.L. 100–658.	203(a)(7); Sec. 314 of P.L. 99–603; Sec. 2 of P.L. 100–658
OP–1	Nonpreference immigrant under Section 203(a)(7) & Sec. 3 of P.L. 100–658.	203(a)(7); Sec. 3 of P.L. 100–658

* * * * * * *

Section 210 of the Immigration Reform and Control Act of 1986 provides for provisional permanent residence of persons who have resided in the United States and who have performed certain seasonal agricultural services for at least 90 days during the twelve month period ending on May 1, 1986. The application period began on June 1, 1987 and expired on November 30, 1988.

Special Agricultural Workers

Visa Symbol	Class	Section of law
S1W	Special Agricultural Worker Group 1: Applicant who has performed seasonal agricultural services for at least 90 days during each of three years, entitled to adjust status to permanent residence after one year of temporary resident status..	210(a)(2)(A)
S2W	Special Agricultural Worker Group 2: Other seasonal agricultural program applicant, entitled to adjust status to permanent residence after two years of temporary resident status..	210(a)(2)(B)

E. LIST OF SELECTED FORMS RELATING TO VISA PROCESSING

(Source: Visa Office, Department of State; as of March 15, 1989)

DEPARTMENT OF STATE

Form Number	*Title*
OF-155A	Immigrant Visa and Alien Registration.
OF-156	Nonimmigrant Visa Application.
OF-157	Medical Examination.
OF-166	Request for Clearance and/or Visa File or Transfer of Visa File.
OF-167	Information Sheet "Evidence Which May Be Presented to Meet The Public Charge Provisions of the Law".
OF-168	General Information Sheet for Applicants for Immigrant Visas.
OF-169	Form Letter Transmitting "Packet 3".
OF-171	Appointment Letter for Immigrants-"Packet 4".
OF-172	Information Sheet - Labor Certification.
OF-179	Biographic Data for Visa Purposes.
OF-183	Visa Look-Out Card.
OF-186	Immigrant Visa and Visa Workload Monthly Report.
OF-186(A)	Semi-annual Report of Nonimmigrant Visas Issued and Refused.
OF-194	Refusal Letter and Refusal Worksheet.
OF-221	Two-way Visa Action Request & Response.
OF-222	Preliminary Questionnaire to Determine Immigrant Status.
OF-224	Immigrant Visa Control Card.
OF-224A	Cross Reference Card.
OF-224B	Immigrant Visa Control Card.
OF-227	Memorandum of Action in Visa Case.
OF-228	Request for Information From or Report to US INS Concerning an Individual Alien.
OF-230	Application for Immigrant Visa and Alien Registration [see Forms-General, Item 1.3 regarding translation of Form OF-230].
OF-231	Card Index Charge-out Card.
OF-232	Form used in lieu of passport for NIV stamp.
OF-233	Consular Cash Receipt.
OF-236	Request for Transfer of Visa File.
OF-237	Statement of Marriageable Age Applicant (Issued Visa as Child).
FS-469	Monthly Report of Qualified Visa Applicants.
FS-470	Immigrant Visa Allocation Control Sheet.
FS-551	Statement Acknowledging Visa Ineligibility of Family Member.
FS-552	Certificate Regarding Documents Required by 22 CFR 42.65(b) Which are Unobtainable.
DSL-826	Form Letter to Visa Applicant.
DSL-836a	Information Regarding Posting of Public Charge Bond.
DSL-851	Information Sheet "Classes of Aliens Ineligible to Receive Visas".
DSL-856	General Information Sheet For Temporary Workers.
DSL-856a	General Information Sheet For Intra-Company Transferees.
DSL-858	General Information Sheet For Exchange Visitors.

Department of State—Continued

Form Number	*Title*
DSL–859	General Information For Applicants for Visitor Visas.
DSL–869a	Form Letter Transmitting "Packet 3(a)".
DSL–988	Form Letter Transmitting "Packet 2(a), (b), (c), (d), or (e)".
DSL–989A	Form Letter Transmitting "Packet 3(b)".
DSL–999	Information Sheet "Visas for Treaty Traders and Treaty Investors".
DSL–1011	General Information Sheet for Fiancees/Fiances.
DSL–1045	Form Letter re. Cancellation of Registration under INA 203(e).
DSL–1046	Final Notice of Cancellation of Registration under INA 203(e).
DSL–1055	General Information - Students.
DSL–1063	Information for Applicants Who Wish to Qualify for Nonpreference Registration as Investors.

Customs Service

Form Number	*Title*
7507	General Information.

Department of Labor

Form Number	*Title*
ETA–750 A	Application for Alien Employment (Offer of Employment).
ETA–750 B	Statement of Qualifications of Alien

Federal Bureau of Investigation

Form Number	*Title*
I–178	Requisition for Ordering Identification Supplies.
FD–258	Applicant Fingerprint Cards (with self-addressed envelopes)

Immigration and Naturalization Service*

Form Number	*Title*
AR–4	Alien Registration Fingerprint Card with Instructions (8x8 card).
G–325	Biographic Information.
G–325A	Biographic Information.
G–325C	Biographic Information.
G–641	Application for Verification of Information from Immigration and Naturalization Service Records.
G–651	Affidavit Re Relationship for Refugee Applying for Entry into the U.S.
I–71	Inquiry Form Sent to Employer for Revalidation of Continuing Intent to Hire Alien.
I–94	Arrival - Departure Record.
I–95AB	Crewman's Landing Permit.
I–151	Alien Registration Receipt Card (latest version is I–551).
I–171	Notice of Approval of Relative Immigrant Visa Petition.
I–171C	Notice of Approval or Extension of Nonimmigrant Visa Petition of H or L Alien.
I–171F	Notice of Approval of Nonimmigrant Visa Petition for Fiance or Fiancee.
I–171H	Notice of Favorable Determination Concerning Application for Advance Processing of Orphan Petition.
I–186	Nonresident Alien Mexican Border Crossing Card.
I–391	Notice - Immigration Bond Cancellation.
I–407	Abandonment by Alien of Lawful Permanent Resident Status.

IMMIGRATION AND NATURALIZATION SERVICE*—CONTINUED

Form Number	*Title*
I-464A	Notice of Third - Sixth Preference Petition Approved Under Sec. 203(a) of the INA.
I-483A	Request for Information from Consular Files.
I-526	Request for Determination that Prospective Immigrant is an Investor.
I-590	Registration for Classification as Refugee (Section 207).
I-591	Assurance by a United States Sponsor in Behalf of an Applicant for Refugee Status.
I-600	Petition to Classify Orphan as an Immediate Relative.
I-600A	Application for Advance Processing of Orphan Petition.
I-601	Application for Waiver of Grounds of Excludability.
I-602	Application by Refugee for Waiver of Grounds of Ineligibility.
I-603	Notification to Consul of Waiver of Grounds of Ineligibility.
I-604	Request for and Report on Overseas Orphan Investigation.
I-612	Application for Waiver of the Foreign Residence Requirement of Section 212(e).
I-613	Request for United States Information Agency Recommendation for Section 212(e) Waiver.

*For additional INS forms, see Appendix IX. C., p. 408.

PUBLIC HEALTH SERVICE

Form Number	*Title*
PHS-731	International Certificate of Vaccination

SELECTIVE SERVICE SYSTEM

Form Number	*Title*
SSS-725	Authorization for Release of Information

UNITED STATES INFORMATION AGENCY

Form Number	*Title*
IAP-66	Certificate of Eligibility for Exchange Visitor (J-1) Status

F. Offices of State Department

1. List of American Diplomatic and Consular Offices Issuing Visas

(Source: Visa Office, Department of State; as of March 15, 1989)

[Unless otherwise indicated, American diplomatic and consular offices listed below issue both immigrant and nonimmigrant visas. However, diplomatic visas are issued abroad at American Embassies only; consulates may issue such visas only if specifically so authorized. The insertion of "NIV" after a diplomatic or consular office indicates that the particular office issues nonimmigrant visas only. The type of visa services provided by a post is occasionally subject to change. NOTE: The following listing should be used to determine only visa issuing posts and not reciprocity schedules.]

The following symbols are used to indicate the status of each office: (E) for Embassy; (CG) for Consulate General; (C) for Consulate; (M) for Mission; (BO) for Branch Office of Embassy; and (USINT) for U.S. Interests Section.

- AFGHANISTAN
  - Kabul (E) - A and G NIV only
- ALGERIA
  - Algiers (E)
  - Oran (C) - NIV
- ANTIGUA AND BARBUDA
  - St. Johns (E) - NIV
- ARGENTINA
  - Buenos Aires (E)
- AUSTRALIA
  - Canberra (E) - NIV
  - Melbourne (CG) - NIV
  - Perth (CG)
  - Sydney (CG)
- AUSTRIA
  - Vienna (E)
- BAHAMAS, THE
  - Nassau (E)
- BAHRAIN
  - Manama (E)
- BANGLADESH
  - Dhaka (E)
- BARBADOS
  - Bridgetown (E)
- BELGIUM
  - Brussels (E)
  - Antwerp (CG) - NIV
- BELIZE
  - Belize City (E)
- BENIN
  - Cotonou (E)
- BERMUDA
  - Hamilton (CG)
- BOLIVIA
  - La Paz (E)
- BOTSWANA
  - Gaborone (E)
- BRAZIL
  - Brasilia (E) - NIV
  - Porto Alegre (C) - NIV
  - Recife (C) - NIV
  - Rio de Janeiro (CG)
  - Sao Paulo (CG) - NIV
- BRUNEI
  - Bandar Seri Begawan (E) - NIV
- BULGARIA
  - Sofia (E)
- BURKINA FASO
  - Ouagadougou (E)
- BURMA
  - Rangoon (E)
- BURUNDI
  - Bujumbura (E)
- CAMEROON
  - Yaounde (E)
- CANADA
  - Ottawa (E) - NIV
  - Calgary (CG)
  - Halifax (CG) - NIV
  - Montreal (CG)
  - Quebec (CG) — NIV
  - Toronto (CG)
  - Vancouver (CG)
- CAPE VERDE
  - Praia (E)
- CENTRAL AFRICAN REPUBLIC
  - Bangui (E)
- CHAD
  - N'Djamena (E) - NIV

- CHILE
  - Santiago (E)
- CHINA
  - Beijing (E) - NIV
  - Chengdu (CG) - NIV except K
  - Guangzhou (CG)
  - Shanghai (CG) - NIV
  - Shenyang (CG) - NIV
- COLOMBIA
  - Bogota (E)
  - Barranquilla (C) - NIV
- COMOROS
  - Moroni (E) - NIV
- CONGO
  - Brazzaville (E)
- COSTA RICA
  - San Jose (E)
- COTE D'IVOIRE*
  - Abidjan (E)
- CUBA
  - Havana (USINT)
- CYPRUS
  - Nicosia (E)
- CZECHOSLOVAKIA
  - Prague (E)
- DENMARK
  - Copenhagen (E)
- DJIBOUTI
  - Djibouti (E)
- DOMINICAN REPUBLIC
  - Santo Domingo (E)
- ECUADOR
  - Quito (E) - NIV
  - Guayaquil (CG)
- EGYPT
  - Cairo (E)
  - Alexandria (CG) - NIV
- EL SALVADOR
  - San Salvador (E)
- EQUATORIAL GUINEA
  - Malabo (E) - NIV
- ETHIOPIA
  - Addis Ababa (E)
- FIJI
  - Suva (E)
- FINLAND
  - Helsinki (E)
- FRANCE
  - Paris (E)
  - Bordeaux (CG) - NIV
  - Lyon (CG) - NIV
  - Marseille (CG) - NIV
  - Martinique, French Caribbean Department (CG)
- GABON
  - Libreville (E)
- GAMBIA, THE
  - Banjul (E)
- GERMAN DEMOCRATIC REPUBLIC
  - Berlin (E)
- GERMANY, FEDERAL REPUBLIC OF
  - Bonn (E) - NIV
  - Berlin (M)
  - Frankfurt am Main (CG)
  - Hamburg (CG) - NIV
  - Munich (CG) - NIV
  - Stuttgart (CG) - NIV
- GHANA
  - Accra (E)
- GREECE
  - Athens (E)
- GUATEMALA
  - Guatemala (E)
- GUINEA
  - Conakry (E) - NIV
- GUINEA-BISSAU
  - Bissau (E)
- GUYANA
  - Georgetown (E)
- HAITI
  - Port-au-Prince (E)
- HONDURAS
  - Tegucigalpa (E)
- HONG KONG
  - Hong Kong (CG)
    - (American Institute in Taiwan office at Taipei preprocesses visa cases for residents of Taiwan)
- HUNGARY
  - Budapest (E)
- ICELAND
  - Reykjavik (E)
- INDIA
  - New Delhi (E)
  - Bombay (CG)
  - Calcutta (CG)
  - Madras (CG)
- INDONESIA
  - Jakarta (E)
  - Medan (C) - NIV
  - Surabaya (C) - NIV
- IRAQ
  - Baghdad (E)
- IRELAND
  - Dublin (E)
- ISRAEL
  - Tel Aviv (E)
- ITALY
  - Rome (E) - NIV
  - Florence (CG) - NIV
  - Genoa (CG) - NIV
  - Milan (CG) - NIV
  - Naples (CG)
  - Palermo (CG) - NIV
- JAMAICA
  - Kingston (E)
- JAPAN
  - Tokyo (E)
  - Fukuoka (C) - NIV
  - Naha, Okinawa (CG)
  - Osaka-Kobe (CG) - NIV
  - Sapporo (CG) - NIV
- JERUSALEM
  - Jerusalem (CG)
- JORDAN
  - Amman (E)
- KENYA
  - Nairobi (E)
- KOREA
  - Seoul (E)
- Pusan (C) - B1 & B2 only
- KUWAIT
  - Kuwait (E)

LAOS
  Vientiane (E)
LEBANON
  Beirut (E)*
LESOTHO
  Maseru (E) - NIV
LIBERIA
  Monrovia (E)
LUXEMBOURG
  Luxembourg (E) - NIV
MADAGASCAR
  Antananarivo (E)
MALAWI
  Lilongwe (E)
  Blantyre (BO) - NIV except A, G, and K
MALAYSIA
  Kuala Lumpur (E)
MALI
  Bamako (E)
MALTA
  Valletta (E)
MARSHALL ISLANDS
  Majuro (U.S. Representative Office) - NIV
MAURITANIA
  Nouakchott (E) - NIV
MAURITIUS
  Port Louis (E)
MEXICO
  Mexico, D.F. (E) - NIV
  Ciudad Juarez (CG)
  Guadalajara (CG) - NIV
  Hermosillo (C) - NIV
  Matamoros (C) - NIV
  Mazatlan (C) - NIV
  Merida (C) - NIV
  Monterrey (CG) - NIV
  Nuevo Laredo (C) - NIV
  Tijuana (CG)
MICRONESIA, FEDERATED STATES OF
  Kolonia (U.S. Representative Office) - NIV
MONGOLIA
  Ulaanbaatar (E) - NIV
MOROCCO
  Rabat (E) - NIV
  Casablanca (CG)
MOZAMBIQUE
  Maputo (E)
NEPAL
  Kathmandu (E)
NETHERLANDS
  The Hague (E) - Urgent NIV's for diplomatic community only
  Amsterdam (CG)
NETHERLANDS ANTILLES
  Curacao (CG)
NEW ZEALAND
  Wellington (E) - NIV
  Auckland (CG)
NICARAGUA
  Managua (E)
NIGER
  Niamey (E)
NIGERIA
  Lagos (E)
  Kaduna (CG) - NIV except K
NORWAY
  Oslo (E)
OMAN
  Muscat (E)
PAKISTAN
  Islamabad (E) - NIV
  Karachi (CG)
  Lahore (CG)
  Peshawar (C) - NIV
PALAU
  Koror (Status Liaison Office) - NIV
PANAMA
  Panama (E)
PAPUA NEW GUINEA
  Port Moresby (E)
PARAGUAY
  Asuncion (E)
PERU
  Lima (E)
PHILIPPINES
  Manila (E)
  Cebu (C) - NIV except K
POLAND
  Warsaw (E)
  Krakow (CG) - NIV except K
  Poznan (C) - NIV except K
PORTUGAL
  Lisbon (E)
  Oporto (C)
  Ponta Delgada (C)
QATAR
  Doha (E)
ROMANIA
  Bucharest (E)
RWANDA
  Kigali (E)
SAUDI ARABIA
  Riyadh (E)
  Dhahran (CG) - NIV
  Jeddah (CG) - NIV
SENEGAL
  Dakar (E)
SEYCHELLES
  Victoria (E)
SIERRA LEONE
  Freetown (E)
SINGAPORE
  Singapore (E)
SOLOMON ISLANDS
  Honiara (C) - NIV
SOMALIA
  Mogadishu (E)
SOUTH AFRICA
  Pretoria (E) - Dipl. & Official NIV only
  Cape Town (CG) - NIV
  Durban (CG) - NIV
  Johannesburg (CG)
SOVIET UNION
  Moscow (E)
  Leningrad (CG) - NIV
SPAIN
  Madrid (E)
  Barcelona (CG) - NIV

- SRI LANKA
  - Colombo (E)
- SUDAN
  - Khartoum (E)
- SURINAME
  - Paramaribo (E)
- SWAZILAND
  - Mbabane (E) - NIV
- SWEDEN
  - Stockholm (E)
- SWITZERLAND
  - Bern (E)
  - Geneva (BO) - G and emergency NIV's
  - Zurich (CG) - NIV
- SYRIA
  - Damascus (E)
- TAIWAN (See HONG KONG)
- TANZANIA
  - Dar es Salaam (E)
- THAILAND
  - Bangkok (E)
  - Chiang Mai (CG) - NIV
- TOGO
  - Lome (E)
- TRINIDAD AND TOBAGO
  - Port-of-Spain (E)
- TUNISIA
  - Tunis (E)
- TURKEY
  - Ankara (E)
  - Istanbul (CG)
  - Izmir (CG) - NIV
- UGANDA
  - Kampala (E)
- UNITED ARAB EMIRATES
  - Abu Dhabi (E)
  - Dubai (CG) - NIV
- UNITED KINGDOM
  - London (England) (E)
  - Belfast (Northern Ireland) (CG) - NIV
- URUGUAY
  - Montevideo (E)
- VENEZUELA
  - Caracas (E)
  - Maracaibo (C) - NIV
- YEMEN ARAB REPUBLIC
  - Sanaa (E)
- YUGOSLAVIA
  - Belgrade (E)
  - Zagreb (CG)
- ZAIRE
  - Kinshasa (E)
  - Lubumbashi (CG) - NIV
- ZAMBIA
  - Lusaka (E)
- ZIMBABWE
  - Harare (E)

*Immigrant visa (IV) processing in Beirut has been suspended. IV files have been transferred to Amembassy Athens. All inquiries and IV clearances for Lebanese applicants should be directed to the Consular Section, Amembassy Athens. NIV processing in Beirut is limited to diplomatic and officials cases only. Other applicants for NIV's must apply at a post outside Lebanon.

2. Alphabetical Listing of Visa Issuing Posts

(Source: Visa Office, Department of State; as of March 15, 1989)

ABBREVIATIONS USED

A—Foreign Gov't Officials Category
BO—Branch Office of Embassy
C—Consulate
CG—Consulate General
E—Embassy
G—Int'l Organization Aliens Category
IV—Immigrant Visas
K—Fiance(e) Category
M—Mission
NIV—Nonimmigrant Visas
SLO—Status Liaison Office
USINT—U.S. Interests Section
USRO—U.S. Representative Office

Visa Issuing Posts

Post Country	Designation of Post	Visa Services Performed
Abidjan, Cote d'Ivoire	E	All
Abu Dhabi, United Arab Emirates	E	All
Accra, Ghana	E	All
Addis Ababa, Ethiopia	E	All
Alexandria, Egypt	CG	NIV
Algiers, Algeria	E	All
Amman, Jordan	E	All
Amsterdam, Netherlands	CG	All
Ankara, Turkey	E	All
Antananarivo, Madagascar	E	All
Antwerp, Belgium	CG	NIV
Asuncion, Paraguay	E	All
Athens, Greece	E	All
Auckland, New Zealand	CG	All
Baghdad, Iraq	E	All
Bamako, Mali	E	All
Bandar Seri Begawan, Brunei	E	NIV
Bangkok, Thailand	E	All
Bangui, Central African Republic	E	All
Banjul, The Gambia	E	All
Barcelona, Spain	CG	NIV
Barranquilla, Columbia	C	NIV
Beijing, China	E	NIV
Beirut, Lebanon	E	All[1]
Belfast, Northern Ireland, U.K.	CG	NIV
Belgrade, Yugoslavia	E	All
Belize City, Belize	E	All
Berlin, German Democratic Republic	E	All
Berlin, Federal Republic of Germany	M	All
Bern, Switzerland	E	All
Bissau, Guinea-Bissau	E	All
Blantyre, Malawi	BO	NIV except A, G, and K
Bogota, Columbia	E	All
Bombay, India	CG	All
Bonn, Germany	E	NIV
Bordeaux, France	CG	NIV
Brasilia, Brazil	E	NIV
Brazzaville, Congo	E	All
Bridgetown, Barbados	E	All
Brussels, Belgium	E	All

Visa Issuing Posts—Continued

Post Country	Designation of Post	Visa Services Performed
Bucharest, Romania	E	All
Budapest, Hungary	E	All
Buenos Aires, Argentina	E	All
Bujumbura, Burundi	E	All
Cairo, Egypt	E	All
Calcutta, India	CG	All
Calgary, Canada	CG	All
Canberra, Australia	E	NIV
Cape Town, South Africa	CG	NIV
Caracas, Venezuela	E	All
Casablanca, Morocco	CG	All
Cebu, Philippines	C	NIV except K
Chengdu, China	CG	NIV except K
Chiang Mai, Thailand	CG	NIV
Ciudad Juarez, Mexico	CG	All
Colombo, Sri Lanka	E	All
Conakry, Guinea	E	NIV
Copenhagen, Denmark	E	All
Cotonou, Benin	E	All
Curacao, Netherlands Antilles	CG	All
Dakar, Senegal	E	All
Damascus, Syria	E	All
Dar es Salaam, Tanzania	E	All
Dhahran, Saudi Arabia	CG	NIV
Dhaka, Bangladesh	E	All
Djibouti, Djibouti	E	All
Doha, Qatar	E	All
Dubai, United Arab Emirates	CG	NIV
Dublin, Ireland	E	All
Durban, South Africa	CG	NIV
Florence, Italy	CG	NIV
Frankfurt am Main, Germany	CG	All
Freetown, Sierra Leone	E	All
Fukuoka, Japan	C	NIV
Gaborone, Botswana	E	All
Geneva, Switzerland	BO	G visas and emergency NIV's
Genoa, Italy	CG	NIV
Georgetown, Guyana	E	All
Guadalajara, Mexico	CG	NIV
Guangzhou, China	CG	All
Guatemala, Guatemala	E	All
Guayaquil, Ecuador	CG	All
Hague, The Netherlands	E	Urgent NIV's for diplomatic community only
Halifax, Canada	CG	NIV
Hamburg, Germany	CG	NIV
Hamilton, Bermuda	CG	All
Harare, Zimbabwe	E	All
Havana, Cuba	USINT	All
Helsinki, Finland	E	All
Hermosillo, Mexico	C	NIV
Hong Kong, Hong Kong [2]	CG	All
Honiara, Solomon Islands	C	NIV
Islamabad, Pakistan	E	NIV
Istanbul, Turkey	CG	All
Izmir, Turkey	CG	NIV
Jakarta, Indonesia	E	All
Jerusalem, Jerusalem	CG	All
Jeddah, Saudi Arabia	CG	NIV
Johannesburg, South Africa	CG	All
Kabul, Afghanistan	E	A and G NIV only
Kaduna, Nigeria	CG	NIV except K

VISA ISSUING POSTS—CONTINUED

Post Country	Designation of Post	Visa Services Performed
Kampala, Uganda	E	All
Karachi, Pakistan	CG	All
Kathmandu, Nepal	E	All
Khartoum, Sudan	E	All
Kigali, Rwanda	E	All
Kingston, Jamaica	E	All
Kinshasa, Zaire	E	All
Kolonia, Micronesia	USRO	NIV
Koror, Palau	SLO	NIV
Krakow, Poland	CG	NIV except K
Kuala Lumpur, Malaysia	E	All
Kuwait, Kuwait	E	All
Lagos, Nigeria	E	All
Lahore, Pakistan	CG	All
La Paz, Bolivia	E	All
Leningrad, Soviet Union	CG	NIV
Libreville, Gabon	E	All
Lilongwe, Malawi	E	All
Lima, Peru	E	All
Lisbon, Portugal	E	All
Lome, Togo	E	All
London, England, U.K.	E	All
Lubumbashi, Zaire	CG	NIV
Lusaka, Zambia	E	All
Luxembourg, Luxembourg	E	NIV
Lyon, France	CG	NIV
Madras, India	CG	All
Madrid, Spain	E	All
Majuro, Marshall Islands	USRO	NIV
Malabo, Equatorial Guinea	E	NIV
Managua, Nicaragua	E	All
Manama, Bahrain	E	All
Manila, Philippines	E	All
Maputo, Mozambique	E	All
Maracaibo, Venezuela	C	NIV
Marseille, France	CG	NIV
Martinique, French Caribbean Department.	CG	All
Maseru, Lesotho	E	NIV
Matamoros, Mexico	C	NIV
Mazatlan, Mexico	C	NIV
Mbabane, Swaziland	E	NIV
Medan, Indonesia	C	NIV
Melbourne, Australia	CG	NIV
Merida, Mexico	C	NIV
Mexico, D.F, Mexico	E	NIV
Milan, Italy	CG	NIV
Mogadishu, Somalia	E	All
Monrovia, LIberia	E	All
Monterrey, Mexico	CG	All
Montevideo, Uruguay	E	NIV
Montreal, Canada	CG	All
Moroni, Comoros	E	NIV
Moscow, Soviet Union	E	All
Munich, Germany	CG	NIV
Muscat, Oman	E	All
Naha Okinawa, Japan	CG	All
Nairobi, Kenya	E	All
Naples, Italy	CG	All
Nassau, The Bahamas	E	All
New Delhi, India	E	All
N'Djamena, Chad	E	NIV

VISA ISSUING POSTS—CONTINUED

Post Country	Designation of Post	Visa Services Performed
Niamey, Niger	E	All
Nicosia, Cyprus	E	All
Nouakchott, Mauritania	E	NIV
Nuevo Laredo, Mexico	C	NIV
Oporto, Portugal	C	All
Oran, Algeria	C	NIV
Osaka-Kobe, Japan	CG	NIV
Oslo, Norway	E	All
Ottawa, Canada	E	NIV
Ouagadougou, Burkina Faso	E	All
Palermo, Italy	CG	NIV
Panama, Panama	E	All
Paramaribo, Suriname	E	All
Paris, France	E	All
Perth, Australia	CG	All
Peshawar, Pakistan	C	NIV
Ponta Delgada, Azores, Portugal	C	All
Port-au-Prince, Haiti	E	All
Port Louis, Mauritius	E	All
Port Moresby, Papua New Guinea	E	All
Port-of-Spain, Trinidad and Tobago	E	All
Porto Alegre, Brazil	C	NIV
Poznan, Poland	C	NIV except K
Prague, Czechoslovakia	E	All
Praia, Cape Verde	E	All
Pretoria, South Africa	E	Diplomatic and official NIV only
Pusan, Korea	C	B1 & B2
Quebec, Canada	CG	All
Quito, Ecuador	E	NIV
Rabat, Morocco	E	NIV
Rangoon, Burma	E	All
Recife, Brazil	C	NIV
Reykjavik, Iceland	E	All
Rio de Janeiro, Brazil	CG	All
Riyadh, Suadi Arabia	E	All
Rome, Italy	E	NIV
St. Johns, Antigua and Barbuda	E	NIV
Sanaa, Yemen Arab Republic	E	All
San Jose, Costa Rica	E	All
San Salvador, El Salvador	E	All
Santiago, Chile	E	All
Santo Domingo, Dominican Republic	E	All
Sao Paulo, Brazil	CG	NIV
Sapporo, Japan	CG	NIV
Seoul, Korea	E	All
Shanghai, China	CG	NIV
Shenyang, China	CG	NIV
Singapore, Singapore	E	All
Sofia, Bulgaria	E	All
Stockholm, Sweden	E	All
Stuttgart, Germany	CG	NIV
Surabaya, Indonesia	C	NIV
Suva, Fiji	E	All
Sydney, Australia	CG	All
Taipei, Taiwan [2]		[See HONG KONG]
Tegucigalpa, Honduras	E	All
Tel Aviv, Israel	E	All
Tijuana, Mexico	CG	All
Tokyo, Japan	E	All
Toronto, Canada	CG	All
Tunis, Tunisia	E	All

VISA ISSUING POSTS—CONTINUED

Post Country	Designation of Post	Visa Services Performed
Ulaanbaatar, Mongolia	E	NIV
Valletta, Malta	E	All
Vancouver, Canada	CG	All
Victoria, Seychelles	E	All
Vienna, Austria	E	All
Vientiane, Laos	E	All
Warsaw, Poland	E	All
Wellington, New Zealand	E	NIV
Yaounde, Cameroon	E	All
Zagreb, Yugoslavia	CG	All
Zurich, Switzerland	CG	NIV

[1] IV processing in Beirut has been suspended. IV files have been transferred to Amembassy Athens. All inquiries and IV clearances for Lebanese applicants should be directed to the Consular Section, Amembassy Athens. NIV processing in Beirut is limited to diplomatic and officials cases only. Other applicants for NIV's must apply at a post outside Lebanon.

[2] American Institute in Taiwan office at Taipei preprocesses visa cases for residents of Taiwan.

IX. OFFICES AND FORMS OF IMMIGRATION AND NATURALIZATION SERVICE

A. Listing of Immigration and Naturalization Service Offices

(Source: Immigration and Naturalization Service, Department of Justice; as of March 15, 1989)

CENTRAL OFFICE: 425 I Street, N.W., Washington, D.C. 20536

Eastern Regional Office (Burlington): Federal Building, Burlington, VT 05401

- *Baltimore District Office*: E.A. Garmatz Federal Building, 101 West Lombard, Baltimore, MD 21201
- *Boston District Office*: John F. Kennedy Federal Building, Government Center, Boston, MA 02203
  - *Hartford Sub-Office: Ribicoff Federal Building, 450 Main St., Hartford, CT 06103-3060*
  - *Providence Sub-Office*: 203 John O. Pastore Federal Building, Providence, RI 02903
- *Buffalo District Office*: 68 Court Street, Buffalo, NY 14202
  - *Albany Sub-Office*: U.S. Post Office & Courthouse, Room 220, 445 Broadway, Albany, NY 12207
- *Newark District Office*: Federal Building, 970 Broad St., Newark, NJ 07102
- *New York District Office*: 26 Federal Plaza, New York, N.Y. 10278
- *Philadelphia District Office*: Independence Mall West, 601 Market St., Room 1321, U.S. Courthouse, Philadelphia, PA 19106
  - *Pittsburg Sub-Office*: 2130 Federal Building, 1000 Liberty Avenue, Pittsburg, PA 15222
- *Portland District Office*: 739 Warren Ave., Portland, ME 04103
  - *St. Albans Sub-Office*: Federal Building, P.L. Box 328, St. Albans, VT 05478
- *San Juan District Office*: G.P.O. Box 5068, San Juan, Puerto Rico 00936
- *Washington (Arlington) District Office*: 4420 North Fairfax Drive, Arlington, VA 22203
  - *Norfolk Sub-Office*: Norfolk Federal Bldg., 200 Granby Mall, Room 439, Norfolk, VA 23510

Northern Regional Office (Twin Cities): Bishop Henry Whipple Federal Building, Fort Snelling, Twin Cities, MN 55111

- *Anchorage District Office*: 222 West 7th Avenue, #16, Room 233, Anchorage, AK 99513-7851
- *Chicago District Office*: Dirksen Federal Building, 219 South Dearborn St., Chicago, IL 60604
  - *Indianapolis Sub-Office*: U.S. Federal Building & Courthouse, 46 E. Ohio St., Indianapolis, IN 46204
  - *Milwaukee Sub-Office*: Federal Bldg., Room 186, 517 Wisconsin Avenue, Milwaukee, WI 53202
- *Cleveland District Office*: Anthony J. Celebreeze Federal Building, 1240 E. 9th St., Room 1917, Cleveland, OH 44199
  - *Cincinnati Sub-Office*: 550 Main St., Room 8525, Cincinnati, OH 45202.
- *Denver District Office*: 1787 Federal Building, 1961 Stout St., Denver, CO 80202
  - *Salt Lake City Sub-Office*: 230 West 400 South St., Salt Lake City, UT 84101
- *Detroit District Office*: Federal Building, 333 Mt. Elliott St., Detroit, MI 48207
- *Helena District Office*: Federal Building, Room 512, 301 South Park, Drawer 10036, Helena, MT 59601
- *Kansas City District Office*: 9747 North Conant Ave., Kansas City, MO 64153
  - *St. Louis Sub-Office*: 210 North Tucker Blvd., St. Louis, MO 63101
- *Omaha District Office*: Federal Building, Room 1008, 106 South 15th St., Omaha, NE 68102

Portland District Office: Federal Building, 511 N.W. Broadway, Portland, OR 97209
St. Paul District Office: 927 Main Post Office Building, 180 E. Kellogg Blvd., St. Paul, MN 55101
Seattle District Office: 815 Airport Way, South, Seattle, WA 98134
Spokane Sub-Office: 691 U.S. Courthouse Building, Spokane, WA 99201

Western Regional Office (Laguna Niguel): 2400 Avila Road, P.O. Box 30080, Laguna Niguel, CA 92677
Honolulu District Office: 595 Ala Moana Blvd., Honolulu, HI 96813
Guam Sub-Office: Pacific News Bldg., 238 O'Hara St., Agana, Guam 96910
Los Angeles District Office: 300 North Los Angeles St., Los Angeles, CA 90012
Phoenix District Office: 230 North First Street, Phoenix, AZ 85025
Las Vegas Sub-Office: 300 S. Las Vegas Blvd, Rm 104, Las Vegas, NV 89101
Reno Sub-Office: 712 Mill St., Reno, NV 89502
San Diego District Office: 880 Front St., San Diego, CA 92188
San Francisco District Office: Appraisers Building, 630 Sancome St., San Francisco, CA 94111
Fresno Sub-Office: U.S. Courthouse, Federal Building, Room 1308, 1130 "O" St., Fresno, CA 93721
Sacremento Sub-Office: 650 Capital Mall, Sacremento, CA 85814
San Jose Sub-Office: 280 S. First St., Room 1150, San Jose, CA 95113

Southern Regional Office (Dallas): Skyline Center Bldg. "C", 311 North Stemmons Freeway, Dallas, TX 75270
Atlanta District Office: 77 Forsyth Street, S.W., Room G-85, Atlanta, GA 30303
Charlotte Sub-Office: 6 Woodlawn Green, Room 138, Charlotte, NC 28217
Dallas District Office: Federal Bldg. Room 6A 21, Dallas, TX 75242
Oklahoma Sub-Office: 4149 Highline Blvd., Suite 300, Oklahoma City, OK 73108
El Paso District Office: 700 E. San Antonio, P.O. Box 9398-79984, El Paso, TX 79401
Albuquerque Sub-Office: 517 Gold Avenue, S.W. Box 567, Room 1114, Albuquerque, NM 87103
Harlingen District Office: 2102 Teege Road, Harlingen, TX 78550
Houson District Office: 509 North Belt, Houston TX 77060
Miami District Office: 7880 Biscayne Blvd., Miami, FL 33138
Jacksonville Sub-Office: 400 West Bay St., Room G-18, P.O. Box 35029, Jacksonville, FL 32202
Tampa Sub-Office: 5509 Gray St., Suite 113, Tampa FL 33609
New Orleans District Office: Postal Services Building, 701 Loyola Ave. Room T-8005, New Orleans, LA 70113
Louisville Sub-Office: Room 601, U.S. Courthouse, West 6th & Broadway, Louisville, KY 40202
Memphis Sub-Office: 814 Federal Building, 167 North Main St., Memphis, TN 38103
San Antonio District Office: U.S. Federal Building, 727 East Durango, Suite A 301, San Antonio, TX 78206

Overseas Mailing Addresses
Aruba
Senior Immigration Inspector
U.S. Immigration and Naturalization Service
Queen Beatrix Airport
Oranjestad, Aruba

Austria
Office In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Vienna, Austria
APO New York, NY 09108

England
Immigration Office
U.S. Immigration and Naturalization Service
c/o American Embassy, Longon
Box 6
FPO New York, NY 09509

Germany

Office In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Frankfurt, Germany
Box 12
APO New York, NY 09213

Greece

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Athens, Greece
APO New York, NY 09253

Hong Kong

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Hong Kong
Box 30
FPO San Francisco, CA 96639-0002

India

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, New Delhi, India
U.S. Department of State
Washington, D.C. 20520-9000

Ireland

Senior Immigration Inspector
U.S. Immigration and Naturalization Service
c/o Aer-Rianta
Shannon International Airport
Attn:Port Director
Shannon, Ireland

Italy

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Rome, Itlay
APO New York, NY 09794-0007

Kenya

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Nairobi, Kenya
Box 21
APO New York, NY 09675

Korea

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Seoul, Korea
APO San Francisco, CA 96301

Mexico

Officer In Charge
U.S. Immigration and Naturalization Service
Box 3088, Guadalajara
Laredo, TX 78044

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Mexico City
Room 118, P.O. Box 3087
Laredo, TX 78044

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Monterrey
P.O. Box 3098
Laredo, TX 78041

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Consulate General, Ciudad, Juarez
P.O. Box 9896
El Paso, TX 79989-9896

Immigration Officer
U.S. Immigration and Naturalization Service
c/o American Consulate General, Tijuana
P.O. Box 1358
San Ysidro, CA 92073-1358

Panama

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Panama
APO Miami, FL 34002

Philippines

Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Manila
APO San Francisco, CA 96528

Singapore

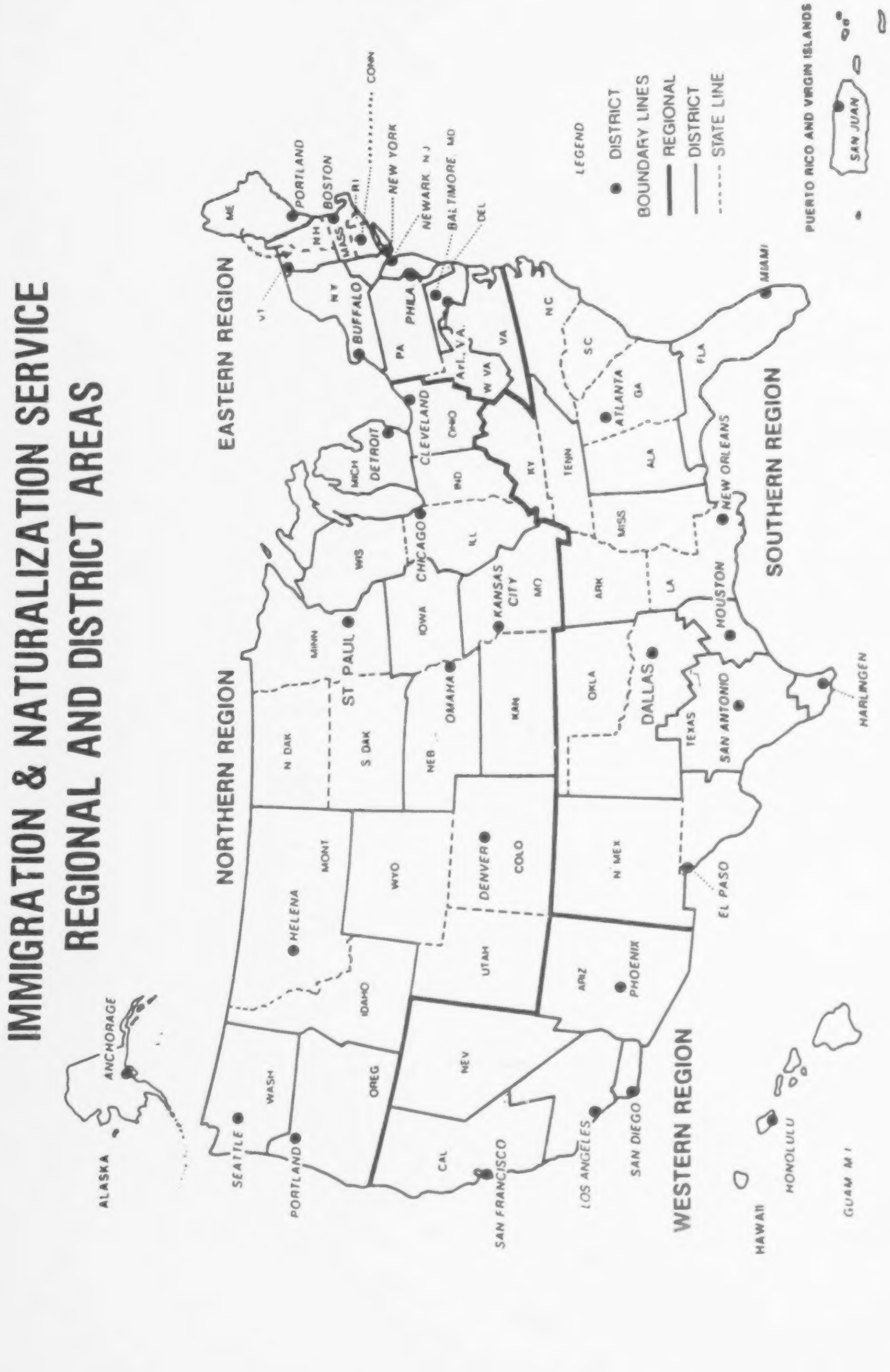
Officer In Charge
U.S. Immigration and Naturalization Service
c/o American Embassy, Singapore
FPO San Francisco, CA 96699-001

Thailand

District Director
U.S. Immigration and Naturalization Service
c/o American Embassy, Bangkok, Thailand
Box 12
APO San Francisco, CA 96346-0001

B. MAP OF IMMIGRATION & NATURALIZATION SERVICE REGIONAL AND DISTRICT AREAS

(Source: Immigration and Naturalization Service, Department of Justice; as of March 15, 1989)


IMMIGRATION & NATURALIZATION SERVICE
REGIONAL AND DISTRICT AREAS
NORTHERN REGION
EASTERN REGION
SOUTHERN REGION
WESTERN REGION
ALASKA
ANCHORAGE
SEATTLE
PORTLAND
HELENA
ST PAUL
OMAHA
KANSAS CITY
CHICAGO
DETROIT
CLEVELAND
BUFFALO
PORTLAND
BOSTON
NEW YORK
NEWARK
PHILA
BALTIMORE
ATLANTA
MIAMI
NEW ORLEANS
HOUSTON
DALLAS
SAN ANTONIO
HARLINGEN
EL PASO
DENVER
PHOENIX
SAN DIEGO
LOS ANGELES
SAN FRANCISCO
HONOLULU
HAWAII
GUAM M I
WASH
OREG
CAL
NEV
IDAHO
MONT
WYO
UTAH
ARIZ
COLO
N MEX
N DAK
S DAK
NEB
KAN
OKLA
TEXAS
MINN
IOWA
MO
ARK
LA
WIS
ILL
MICH
IND
OHIO
KY
TENN
MISS
ALA
GA
FLA
SC
NC
VA
W VA
Arl. VA.
PA
NY
VT
NH
MASS
RI
CONN
ME
NJ
MD
DEL
LEGEND
DISTRICT
BOUNDARY LINES
REGIONAL
DISTRICT
STATE LINE
PUERTO RICO AND VIRGIN ISLANDS
SAN JUAN

C. FORMS OF THE IMMIGRATION AND NATURALIZATION SERVICE

(Source: Immigration and Naturalization Service, Department of Justice; as of March 15 1989. NOTE: These are in *addition* to the INS forms, relating to processing of immigrant visas, listed in Appendix VIII. E., at p. 392)

Form Number	*Title*
G-27	Request for Representation Before the BIA and I&N Service.
G-28	Notice of Entry of Appearance as Attorney or Representative.
G-56	General Call-in Letter.
G-94	Card Notice to Alien Regarding Mailing of Reentry Permit.
G-146	Letter to Ascertain Whereabouts of Nonimmigrant.
G-620	Blood Group, Blood Type and RH Factor Test.
G-646	Sworn Statement of Refugee Applying for Entry into the United States.
G-854	Application/Petition Acknowledgement/Fee Receipt.
I-9	Employment Eligibility Verification.
I-17	Petition for Approval of School for Attendance by Nonimmigrant Students.
I-20A-B	Certificate of Eligibility For Nonimmigrant (F-1) Student Status—For Academic and Language Students.
I-20M-N	Certificate of Eligibility for Nonimmigrant (M-1) Student Status—For Vocational Students.
I-68	Canadian Border Boat Landing Permit.
I-72	Form Letter for Returning Deficient Applications/Petitions.
I-90	Application by a Lawful Permanent Resident for an Alien Registration Receipt Card (Form I-551).
I-102	Application by Nonimmigrant Alien for Replacement of Arrival Document.
I-104	Alien Address Report Card.
I-126	Report of Status by Treaty Trader of Investor.
I-129B	Petition To Classify Nonimmigrant as Temporary Worker or Trainee.
I-129F	Petition to Classify Status of Alien Fiance or Fiancee for Issuance of a Nonimmigrant Visa.
I-129L	Petition to Employ Intracompany Transferee.
I-129S	Intracompany Transferee Certification of Eligibility.
I-130	Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa.
I-131	Application for Issuance of Permit to Reenter the United States.
I-134	Affidavit of Support.
I-140	Petition to Classify Preference Status of Alien on Basis of Profession or Occupation.
I-175	Application for Nonresident Alien's Canadian Border Crossing Card.
I-180	Notice of Voidance of Form I-186 or Denial of Form I-190.
I-181	Memorandum of Creation of Record of Lawful Permanent Residence.
I-185	Nonresident Alien Canadian Border Crossing Card.
I-190	Application for Nonresident Alien Mexican Border Crossing Card.

Form Number	*Title*
I-191	Application for Advance Permission to Return to Unrelinquished Domicile.
I-192	*Application for Advance Permission to Enter as Nonimmigrant.*
I-193	Application for Waiver of Passport and/or Visa.
I-210	Voluntary Departure Notice.
I-212	Application for Permission to Reapply for Admission into the United States after Deportation or Removal.
I-221	Order to Show Cause and Notice of Hearing.
I-243	Application for Removal.
I-246	Application for Stay of Deportation.
I-256A	Application for Suspension of Deportation.
I-272	Letter RE Action Application for Permission to Reapply for Admission into the United States.
I-275	Notice of Withdrawal of Application for Admission to the United States.
I-290	Notice of Appeal to Commissioner.
I-290A	Notice of Appeal to the Board of Immigration Appeals.
I-291	Decision on Application for Status as Permanent Resident
I-292	Decision.
I-301	Receipt of Depositary for U.S. Bonds or Notes Accepted as Security.
I-327	Permit to Reenter the United States.
I-352	Immigration Bond.
I-356	Request for Cancellation of Public Charge Bond.
I-357	Welcome to the United States of America.
I-358	To Visitors Entering the United States.
I-360	Petition to Classify Public Law 97-359 Amerasian as the Child, Son, or Daughter of a United States Citizen.
I-409	Report of Deserting Crewman.
I-418	Passenger List—Crew List.
I-464A	Notice of Third - Sixth Preference Petition Approved Under Sec. 203(a) of the INA.
I-485	Application for Status as Permanent Resident.
I-485A	Application by Cuban Refugee for Permanent Residence.
I-506	Application for Change of Nonimmigrant Status.
I-512	Authorization for Parole of an Alien into the United States.
I-515	Notice to Student or Exchange Visitor Admitted without I-20 or IAP-66.
I-538	Application by Nonimmigrant Student for Extension of Stay, School Transfer, and Permission to Accept or Continue Employment or Practical Training.
I-539	Application to Extend Time of Temporary Stay.
I-541	Order of Denial of Application for Extension of Stay or Student Employment or Student Transfer.
I-542	Information and Instructions to Nonimmigrants.
I-543	Order of Denial of Application for Change of Nonimmigrant Status.
I-551	Alien Registration Receipt Card.
I-566	Application for Employment by a Spouse or Unmarried Son or Daughter of a G-4 Official.
I-570	Application for Issuance of Refugee Travel Document.
I-571	Refugee Travel Document.
I-589	Request for Asylum in the United States.
I-688A	Employment Authorization Card.
I-690	Application for Waiver of Grounds of Excludability (under sections 245A or 210 of the Immigration and Nationality Act).
I-693	Medical Examination of Aliens Seeking Adjustment of Status.
I-697	Change of Address Card for Legalization and Special Agricultural Workers (SAW).
I-698	Application to Adjust Status from Temporary to Permanent Resident (under Section 245A of P.L. 99-603).

Form Number	*Title*
I-730	Refugee/Asylee Relative Petition.
I-751	Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status.
I-752	Application for Waiver of Requirement to File Joint Petition for Removal of Conditions.
I-772	Declaration of Intending Citizen.
I-777	Application for Issuance or Replacement of Northern Mariana Card.
I-797	Notice of Action.
I-805	Application for Temporary Resident Status as Replenishment Agricultural Worker (SAW) (Section 210 of the Immigration and Nationality Act).
M-50	United States Immigration Laws—General Information.
M-76	A Welcome to U.S.A. Citizenship.
M-122	Availability of Citizenship Education Films.
M-132	Citizenship Education to Meet Naturalization Requirements.
M-188	Appeals and Motions.
M-195	Nonimmigrant Students and Exchange Visitors—Documentary Requirements for Admission to the United States.
M-201	Employment of F-1 and M-1 Nonimmigrant Students in the United States.
M-210	Guide to Immigration Benefits.
M-230	Basic Guide to Naturalization.
M-233	INS Directory of Nonprofit Immigration Counseling Agencies.
M-242	INS Student and School Regulations.
M-249	The Immigration of Adopted and Prospective Adoptive Children.
M-250	INS Orphan Petition Procedures at a Glance.
M-272	Manual—The Immigration of Permanent Foreign Worker.
M-279	Your Job and Your Rights.
M-280	Handbook for Legalization Applicants.
M-282	Notice to Special Agricultural Workers.
M-286	A Reference Manual for Citizenship Instruction.
M-287	Citizenship Education and Naturalization Information.
M-288	U.S. History 1600-1987 Level II.
M-290	U.S. Government Structure Level II.
M-291	U.S. Government Stucture Level I.
M-300	SAVE Program.
M-302	Citizenship Education & Naturalization.
M-303	U.S. Government Structure/English Second Language.
M-304	U.S. States History 1600-1987.
M-308	Guide for SAW Applicants.
N-17	Naturalization Requirements and General Information.
N-300	Application to File Declaration of Intention.
N-315	Declaration of Intention.
N-340	Notice to Appear for Hearing on Application for Certificate of Citizenship.
N-400	Application to File Petition for Naturalization.
N-402	Application to File Petition for Naturalization in Behalf of Child (under Sec. 322, Immigration and Nationality Act).
N-404	Request for Withdrawal of Petition for Naturalization.
N-405	Petition for Naturalization (under general provisions of the Immigration and Nationality Act).
N-407	Petition for Naturalization (in Behalf of a Child, under Sec. 322, Immigration and Nationality Act).
N-414	Acknowledgement of Filing Petition for Naturalization.
N-430	Request that Applicant for Naturalization Appear for Interview.
N-445	Notice to Petitioner to Appear in Court for Final Hearing on Petition for Naturalization, and Questionnaire to be Submitted by Petitioner at the Final Hearing.
N-455	Application for Transfer of Petition for Naturalization.

Form Number	Title
N-458	Application to Correct Certificate of Naturalization.
N-470	Application to Preserve Residence for Naturalization Purposes.
N-550	Certificate of Naturalization.
N-560	Certificate of Citizenship.
N-561	Certificate of Citizenship.
N-565	Application for New Naturalization or Citizenship Paper.
N-570	Certificate of Naturalization.
N-577	Application for a Special Certificate of Naturalization to Obtain Recognition as a Citizen of the United States by a Foreign State.
N-578	Special Certificate of Naturalization.
N-600	Application for Certificate of Citizenship.
N-643	Application for Certificate of Citizenship in Behalf of an Adopted Child.

X. BRIEF HISTORY OF UNITED STATES IMMIGRATION POLICY

[Prepared by Joyce Vialet, Specialist in Immigration Policy, Education and Public Welfare Division, Congressional Research Service, Library of Congress; #88-713 EPW; November 25, 1988]

A. SUMMARY

The early colonists were primarily of European stock, representing the nations which claimed the new land. By the end of the 18th century, a new society was effectively established here, taking its language and many of its customs from England. The mass migration of the 19th century was the result of a near perfect match between the needs of a new country and overcrowded Europe. Europe at this time was undergoing drastic social change and economic reorganization, compounded by overpopulation. America needed immigrants for settlement, defense, and economic well-being. During the period 1820-1880, Germany, Great Britain, and Ireland accounted for the largest numbers.

The last two decades of the 19th century were particularly significant. The volume of immigration continued to increase, the principal sources shifted from Northern and Western to Southern and Eastern Europe, and the Federal Government assumed an increasingly active role, with the first general immigration statute enacted in 1882. While the United States remained willing and able to absorb the mass migration from Southern and Eastern Europe during the end of the 19th and the beginning of the 20th centuries, the country's needs had changed. The frontier had closed, and the "new" immigrants, as they were characterized by the Dillingham Commission, fueled the industrialization and urbanization of America. However, there was growing ambivalence toward the urban immigrants by a predominantly rural country.

By the end of World War I, the era of mass migration was brought to a close by the enactment of increasingly restrictive legislation. Legislation enacted during World War I, the Immigration Act of February 5, 1917, codified existing restrictions and added new ones. During the 1920s, numerical restrictions were placed on immigration from the Eastern Hemisphere in the form of the national origins quota system under the Immigration Act of May 26, 1924. The 1917 and 1924 enactments remained in effect until 1952. Immigration fell sharply during the intervening years in response to the depression of the 1930s and World War II, as well as the legislative restrictions.

The Immigration and Nationality Act of 1952 codified and carried forward the essential elements of the 1917 and 1924 Acts. Enacted over President Truman's veto, it reflected the cold war atmosphere and anti-communism of the period following World War II at the onset of the Korean War. While the national origins quota system remained in place until 1965, many refugees, immigrants, and legal and illegal temporary workers entered outside it. Reflecting a major change in public attitudes toward race and national origins, the Immigration and Nationality Act Amendments of October 3, 1965 repealed the national origins quota system, replacing it with a system based primarily on reunification of families and needed skills.

In the 1970s, as in the 1950s following enactment of the Immigration and Nationality Act, the entry of aliens outside the restrictions of the basic law—both illegally as undocumented aliens, and legally as refugees—was increasingly the dominant pattern in immigration and the basis for the major issues confronting the Congress. In the 1980s, Congress responded to the issue of refugees with the Refugee Act of 1980, and to the issue of undocumented aliens with the Immigration Reform and Control Act of 1986.

B. INTRODUCTION

U.S. immigration policy has been shaped not only by the perceived needs of this country, but by the needs and aspirations of the immigrants themselves. This paper reviews the major streams of immigration to the United States in the context of the country's changing views of immigration.

During the initial immigration of settlers and pioneers to the first European colonies on the North American continent, the objectives of the immigrants and their sending colonial powers were dominant—a complex blend of religious, political, and economic motives which eventually produced the new American society.

Following the establishment of the United States at the end of the 18th century, a wave of mass migration flowed from the European continent to the new nation throughout the 19th century.[1] For the immigrants, economic, religious, and political motives continued to be dominant. The United States' goals in receiving them included the need for new citizens who would participate in national economic and political growth, as well as the humanitarian desire to provide a refuge for the oppressed of other lands. During this period, there were few restrictions on the entering immigrants; our national purposes coincided with essentially unlimited immigration.

As the nation entered the 20th century, cultural conflicts resulting from the changing ethnic character of the immigrant population from Northern and Western Europe to Southern and Eastern Europe, and economic strains in the nation began to generate domestic political opposition to unrestricted immigration. Following World War I, this political opposition led to restrictive legislation focusing predominantly on the ethnic origins of the new immigrants, and also on the size of the immigrant flow. By the 1930s this legislation, in combination with the economic disincentive of the Great Depression, had resulted in a massive reduction in the inflow of immigrants.

Following World War II and continuing through the 1950s, the pattern of immigration as we know it today began to emerge, consisting of immigrants, refugees, and temporary and/or undocumented workers. Refugees came by the hundreds of thousands, fleeing the ravages of World War II and the spread of Communism. Immigrants continued to come primarily under the terms of the national origins quota system, which was extended with minor revisions in 1952, and continued in effect until 1965. Agricultural workers came from Mexico, some legally as Braceros and others illegally—the historical predecessors of today's undocumented aliens.

The distinction between refugees and immigrants became firmly established during the period following World War II, and has continued until the present time. Defined broadly, refugees flee, generally in large groups, from political or religious persecution; immigrants come voluntarily, generally on an individual basis and in an orderly fashion. A third group, illegal or undocumented aliens, come outside the law, generally for economic reasons.

In the case of immigrants, the purposes and goals of the United States are dominant in deciding who comes, a process embodied in the Federal immigration law. The admission of refugees is also subject to Federal legislation, but its enactment and/or administration has tended to be in reaction to events beyond the control of either the receiving society or the refugees themselves. The distinction between immigrants and refugees was unheard of during the mass migrations of the 19th century; no difference was perceived between the Irish fleeing the potato famine and the German "forty-eighters" fleeing political persecution. It developed in the wake of World War II, primarily as a means of reconciling our traditional ideal of asylum with restrictions in the immigration law.

Since the 1940s, the goals and purposes of our immigration policy have diverged regarding the admission of refugees and immigrants. In the case of refugees, humanitarian concerns and foreign policy considerations have been dominant. Domestic, as opposed to foreign, policy considerations have been paramount in the admission of immigrants. The United States' desire in the 1920s to protect and preserve what was then seen as its national ethnic heritage led to the adoption of the national origins quota system. This system was repealed in the context of the civil rights movement of the 1960s, rather than on the predominantly foreign policy grounds for change advanced in the 1950s by Presidents Truman and Eisenhower.

During the 1960s and 1970s, the flow of refugees from political turmoil in other nations continued, requiring the enactment of special legislation. The equal treatment of all nations and family reunification emerged as the primary goals of our policy for admitting immigrants. The flow of illegal or undocumented aliens, particularly from other countries in the Western Hemisphere, resulted in political pressure for more effective measures to restrict illegal immigration.

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[1] A table prepared by the U.S. Immigration and Naturalization Service entitled Immigration by Region and Selected Country of Last Residence: Fiscal Years 1820–1987, appears as Table #1, at p. 427.

During the 1980s, the Congress has been in the process of reviewing and revising all aspects of immigration policy in an attempt to articulate a workable approach which accommodates both our past tradition of asylum as well as the economic and political realities of the present. Legislation providing for flexibility in our response to refugees within the framework of the basic immigration law was enacted in 1980. This was followed in 1986, after lengthy and intensive debates, by legislation aimed at controlling illegal immigration. Congress is currently reeviewing the regulation of legal immigration, including the comparatively limited number of visas available for independent non-family immigration and, relatedly, to certain countries.

C. EARLY IMMIGRATION

Technically speaking, U.S. immigration began with the Declaration of Independence in 1776 and the Treaty of Paris in 1783, which accorded the United States recognition as a nation. Official immigration statistics began to be kept in 1820. However, the settlers and pioneers who colonized North America before the founding of the United States were also immigrants. These early immigrants came from a variety of nations and for a variety of reasons to a new land which placed few constraints on their coming. They provided the people needed to explore and settle the continent, and to develop a new society.

The early colonists were primarily of European stock, representing the nations which laid claim to the new land. Colonists came from Great Britain, France, and the Netherlands to settle the Eastern seaboard of the continent. In the Southeast, France sent colonists to settle Louisiana. In the South and West, Spanish colonists settled in Florida, in the areas which are now Texas and New Mexico, and in California. Along with these settlers came involuntary immigrants—black men brought as slaves from the African continent. Colonists came for a variety of reasons: to serve as soldiers and civilian representatives of the colonizing power; to obtain religious and political freedom; to convert others to their religious views; to improve their economic status and pursue economic gain; to seek adventure; and involuntarily as slaves to provide labor for colonial agriculture and industry.

A brief listing of some of the colonial settlers suggests the diversity of motives which inspired the early immigrants as well as the kaleidoscope of nations from which they came. A combination of religious, political, and economic motives brought settlers from Great Britain to the Massachusetts Bay Colony, the Quaker settlement in Pennsylvania, the Catholic settlement in Baltimore, and the colony of Georgia. Spanish settlers came to California, Florida, and Mexico to search for gold, trade with and bring Christianity to the Indians, and expand the Spanish Empire. French settlers came to Louisiana and Canada to seek land and business opportunities, convert the natives, and protect French trading interests. French Huguenots fled religious persecution after the revocation of the Edict of Nantes in 1685.

German Pietist sects, including the Mennonites and Moravians, also fled persecution in search of religious freedom, many in response to the sympathetic Quaker teachings of William Penn. A later German group, the Hessians, came to fight as mercenaries with the British in the American Revolution, and 5,000 stayed to become immigrants. Dutch and Swedes came for political freedom and economic opportunity, and the Scotch-Irish came throughout the 18th century for economic, religious, and political motives.

The first black slaves were brought to the English colonies in 1619 on a Dutch ship. The term "slave" initially was applied loosely to both white and black servants, and both were treated as indentured servants. However, conditions worsened as the slave trade became more profitable. Slaves were brought to the English, French, Portuguese, Spanish, and Dutch colonies throughout the 18th century. The numbers are not known, although they have been estimated in the millions. Slave importation was prohibited in 1808, but an illicit slave trade continued until the Civil War.

When the first census was taken in 1790, the total population was recorded at 3,227,000. English, Scots, and Scotch-Irish accounted for 75 percent; Germans made up 8 percent; other nationalities with substantial numbers included the Dutch, French, Swedes, and Spanish. The 1790 census showed a black population of approximately 750,000. By the census of 1810, the white population had increased to approximately 6 million, and the black population to approximately 1,378,000.

A new society was effectively established here by the end of the 18th century, taking its language, the basis for its law, and many of its customs from England, with major contributions from other European countries. The country's libertarian principles included a belief in the mission of America to provide asylum for the oppressed, and in the corollary right of the oppressed to seek freedom and opportunity in America. As will be seen, these ideals were remarkably appropriate to the needs of the United States and Europe during the 19th century.

At the same time, there were indications as early as the 18th century of a more negative view of immigration which was to emerge as the dominant one in the 1920s. Perhaps the best known expression of this view was Benjamin Franklin's warning in 1753 about the Germans in Pennsylvania:

> . . . those who came hither are generally the most stupid of their own nation, and as ignorance is often attended with great credulity, when knavery would mislead it, and with suspicion when honesty would set it right; and, few of the English understand the German language, and so cannot address them either from the press or pulpit, it is almost impossible to remove any prejudices they may entertain . . . . Not being used to liberty, they know not how to make modest use of it.[2]

Franklin feared that the Germans would eventually outnumber the English, "and even our government will become precarious."

Similar fears, although not about the Germans, led to the adoption of the national origins quota system 168 years later. However, one of the largest mass migrations in recorded history preceded this step. During the century between the fall of Napoleon and World War I, from 30 to 35 million in immigrants came to the United States.

D. 19TH CENTURY IMMIGRATION

The mass migration of the 19th century was the result of a near perfect match between the needs of a new country and overcrowded Europe. Europe at this time was undergoing drastic social change and economic reorganization, severely compounded by overpopulation. An extraordinary increase in population coincided with the breakup of the old agricultural order which had been in place since medieval times throughout much of Europe. Commonly held lands were broken up into individually owned farms, resulting in landless status for peasants from Ireland to Russia. At approximately the same time, the industrial revolution was underway, moving from Great Britain to Western Europe, and then to Southern and Eastern Europe. For Germany, Sweden, Russia, and Japan, the highest points of emigration coincided with the beginnings of industrialization and the ensuing general disruption of employment patterns. The artisans joined the peasants evicted from their land as immigrants to the United States. Population pressure and related economic problems, sometimes in the extreme form of famine, are generally cited as being the major causes of the mass migration of this long period, followed by religious persecution and the desire for political freedom.

America, on the other hand, had a boundless need for people to push back the frontier, to build the railways, to defend unstable boundaries, and to populate new States. The belief in America as a land of asylum for the oppressed was reinforced by the commitment to the philosophy of manifest destiny. Immigration was required for settlement, defense, and economic well-being.

The coincidence of European and American interest in mass migration during this period is well illustrated by two quotations, one from the European and one from the American point of view. The first is from a letter written home by a Frenchman, J. Hector St. John Crevecoeur, in 1792:

> There is no wonder that this country has so many charms and presents to Europeans so many temptations to remain in it. A traveller in Europe becomes a stranger as soon as he quits his own kingdom; but it is otherwise here. We know, properly speaking, no strangers; this is every person's country; the variety of our soils, situations, climates, governments, and produce, hath something which must please everybody . . . . He does not find, as in Europe, a crowded society, where every place is over-stocked; he does not feel that perpetual collision of parties, that difficulty of beginning, that contention which oversets so many. There is room for everybody in America; has he any particular talent, or industry. He exerts it in order to procure a likelihood, and it succeeds.[3]

The second quotation is from the Republican party platform in 1864, which Abraham Lincoln participated in writing: "Foreign immigration which in the past has added so much to the wealth, resources, and increase of power to this nation—the asylum of the oppressed of all nations—should be fostered and encouraged by a liberal and just policy."[4] The United States throughout the 19th century was in the happy position of doing well by doing good, of adding to its "wealth, resources, and increase of power" by serving as "the asylum of the oppressed of all nations."

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[2] Quoted by Franklin D. Scott. The People of America: Perspectives on Immigration. Washington, American Historical Association, AHA pamphlets 241, 1972. p. 15.

[3] Crevecoeur. Letters from an American Farmer. Reprinted in Immigration and the American Tradition. Moses Rischin, ed. Indianapolis, Bobbs-Merril Co., Inc., 1976. pp. 29–30.

Official, albeit imperfect, immigration statistics were recorded beginning in 1820 by the Department of State, which continued to perform this task until 1870. The immigration data collection function was subsequently transferred to the Treasury Department's Bureau of Statistics, and from there to the Bureau of Immigration, housed first in the Department of Labor and subsequently in the Department of Justice.

Data collection began in 1819 in response to a Federal law requiring ship captains arriving from abroad to submit a manifest to the customs collector showing the sex, occupation, age, and country of all passengers aboard. Initially, data was recorded only on vessels arriving at Eastern ports; Western ports were included beginning in 1850. During the Civil War, data was available only from ports under Federal control. Immigration over land borders was recorded haphazardly until around 1910.

E. 1820–1880

The generally accepted estimate of the number of immigrants entering between the end of the Revolutionary War and 1819 is 250,000. In 1820, 8,385 entries were recorded; by 1840 annual immigration had increased tenfold, to 84,066. Germany, the United Kingdom, and Ireland accounted for 70 percent of the 750,949 entries between 1820–1840. Emigration from Ireland and England was primarily in response to economic problems. In Germany, economic problems were aggravated by liberal discontent with political developments following the Napoleonic Wars.

Immigration increased almost 600 percent, to 4,311,465, during the subsequent 20-year period, 1841–1860. Ireland, Germany, and Great Britain accounted for 87.5 percent of the total. This was the period of the potato famine, which hit hardest in Ireland but affected other parts of Europe as well.

Even with high rates of out-migration, Ireland's population had almost doubled from 1800–1840, increasing from 4.5 million to over 8 million. The increasingly impoverished peasants had become almost wholly dependent on the potato for sustenance. When the entire potato crop was wiped out in 1846 and 1847, half a million people died, 3 million lived on charity, and hundreds of thousands fled to America. Just under 1.7 million came from Ireland between 1841–1860. Emigration from Ireland reduced rather than simply slowed population growth, and in the second half of the century significant amounts of money flowed back into the country in the form of remittances from America.

Germany sent almost 1.4 million immigrants to America during 1841–1860. Germany suffered a severe economic crisis during the 1840s, as well as political unrest culminating in the revolution of 1848. The "forty-eighters" joined those fleeing to America from the potato famine, high prices, and widespread unemployment. An additional 700,000 came from Great Britain.

By 1860, the population of the United States had increased to 31 million, from 7 million in 1810. More than 5 million immigrants had added to this increase. About half of them were from Great Britain and Ireland, followed by more than 1.5 million Germans and 50,000 Scandinavians.

Immigration to the United States was widely, although not universally, encouraged during the mid-19th century; pull factors were operative in addition to the push factors discussed above. Of major importance was the so-called "American letter." These were letters to relatives at home encouraging others to follow, and sometimes including one-way steamship tickets. Another important factor was the active recruitment of passengers by steamship companies and railroad workers by the railroads.

Following the Civil War, the development of the Union Pacific and other railways required the western movement of immigrants. The migration west of immigrants was also encouraged by western States by brochures and agents sent to New York and abroad, and by reducing the residence period required to vote. The Homestead Act of 1862 made western lands available to immigrants as well as the native-born. The Contract Labor Law passed in 1864 was intended to encourage immigration by advancing money for passage. However, it was repealed in 1868, under pressure from U.S. labor groups.

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[4] Quoted by William S. Bernard. American Immigration Policy. New York, Harper and Bros., 1950. p. 6.

Anti-immigration, or nativist, feeling was also strong during the mid-19th century. The nativist movement of this period was inspired by a combination of anti-Catholicism, fear for American labor, the linking of immigration with crime and poverty, and concern about the political impact of immigrants. The nativist Know Nothing party showed considerable strength in the 1850s, but it ebbed by 1860.

Immigration increased to 5,127,015 during the 20-year period 1861–1880, a figure approximately equal to total previous immigration since the country had gained its independence. Germany, Great Britain, and Ireland continued to account for the largest numbers. Additionally, there were significant numbers from Sweden, Norway, and China. The high level of immigration during this period reflected, in part, the growing improvements in international communication and transportation, which resulted in widespread circulation of stories about the new land, as well as a less arduous sea voyage.

In Sweden, the winter of 1867–1868 brought a monetary crisis, followed by a crop failure and local famine. These developments, in combination with precarious agricultural conditions, the displacement of artisans by industrial development, and ideological and religious differences, resulted in mass Swedish emigration in the late 1860s. A similar pattern was repeated in Norway and throughout other countries as agrarian difficulties beset Europe during the 1880s. Eventually, the pressure was eased by the growth of industrial employment in both rural areas and the towns and a slowing population growth. Immigration from the Scandinavian countries eased off in the second decade of the 20th century.

F. THE 1880s THROUGH WORLD WAR I

The last two decades of the 19th century were particularly significant for immigration. The volume of immigration continued to increase, the principal sources shifted from Northern and Western Europe to Southern and Eastern Europe, and the Federal government assumed an increasingly active role.

Federal legislation barring the entry of convicts and prostitutes was enacted on March 3, 1875. The Act of August 3, 1882, is considered the first general immigration statute. It was enacted in response to a combination of factors, including the increasing number of immigrants; the fear that criminals, paupers, and mental and physical defectives were being systematically sent to the United States; and an 1875 Supreme Court ruling that State laws regulating immigration infringed on Congress' exclusive power over foreign commerce and were unconstitutional. This latter development led to lobbying by private welfare organizations in Eastern cities for the establishment of Federal controls.

The Immigration Act of 1882 gave the Secretary of the Treasury authority over immigration, basing this jurisdiction on a newly established head tax of 50 cents per immigrant. The law also continued the bar against undesirables, including convicts, mental defectives, and paupers. This legislation marked the beginning of an active Federal role in immigration. It was enacted primarily in response to problems associated with what the Immigration Commission was to characterize in its 1911 report as the "old" immigration, from Northern and Western Europe; the "new" immigration from Southern and Eastern Europe was just getting underway.

The year 1882 also saw the enactment of the first legislation basing eligibility—or ineligibility—for entry on national origin. This was the Chinese Exclusion Act of May 6, 1882, which remained in effect until its repeal in 1943. Contract labor laws, prohibiting the importation under contract of foreign labor, were also enacted in the 1880s, following the depression, strikes, and efforts of the Knights of Labor during mid-years of the decade. The three elements contained in this early legislation—individual qualifications, national origin, and protection of United States labor—formed the basis for the restrictive policy which supplanted the policy of asylum, or essentially free immigration, after World War I. Chief in importance among these was national origins.

Immigration reached a high of 5,246,613 in 1881–1890, followed by 3,687,564 in the last decade in the 19th century. Germany, the United Kingdom, and Ireland accounted for almost half of the immigration during this period, although their numbers all declined significantly in the 1890s. Immigration from these countries continued a steady and sharp decline into the first two decades of the 20th century. This was due largely to improved economic conditions, resulting from the leveling off of population growth and the increase in industrialization which absorbed increasing numbers of workers.

In contrast, immigration from Italy and Austria-Hungary increased rapidly in the 1880s and 1890s, as it did from other countries in Southern and Eastern Europe. More than 2 million entered during the first decade of the 20th century from both Italy and Austria-Hungary, and more than 1.5 million came from Russia.

The push factors behind this migration resembled those underlying the earlier mass migration from Northern and Western Europe. Economic difficulties beset Italy, Poland, and Greece following the collapse of the old agrarian order and the disruptive early stages in industrialization, aggravated by severe overpopulation. In Italy, the cholera epidemic of 1887 was an added impetus for migration. Again, America provided an alternative to poverty and sometimes starvation for landless peasants and unemployed artisans. Others fled because of religious and ethnic persecution. These included the Russian Jews, Russo-German Mennonites, and Armenians. Others left for predominantly political reasons, including Poles and Russians.

While the United States remained willing and able to absorb the mass migration from Southern and Eastern Europe during the end of the 19th and the beginning of the 20th centuries, the country's needs had changed. The closing of the frontier, officially announced in the 1890 census, coincided with the development of a booming industrial economy which required manpower just as settlement and the opening of the West had in a previous period. The "new" immigrants, as they were characterized by the Dillingham Commission, fueled the industrialization and urbanization of America. Quoting from the Commission's 1911 report:

> A large proportion of the southern and eastern European immigrants of the past 25 years have entered the manufacturing and mining industries of the eastern and middle western States, mostly in the capacity of unskilled laborers. There is no basic industry in which they are not largely represented and in many cases they compose more than 50 percent of the total number of persons employed in such industries. Coincident with the advent of these millions of unskilled laborers there has been an unprecedented expansion of the industries in which they have been employed. Whether this great immigration movement was caused by the industrial development or whether the fact that a practically unlimited and available supply of cheap labor existed in Europe was taken advantage of for the purpose of expanding the industries, cannot well be demonstrated. Whatever may be the truth in this regard it is certain that southern and eastern European immigrants have almost completely monopolized unskilled labor activities in many of the most important industries.[5]

The growing ambivalence toward immigration during the early 20th century is apparent in this description. Immigrants were believed by many to adversely affect the wages and working conditions of U.S. workers. They were also associated with the city by a country which was predominantly rural in its attitudes. As early as 1890, 62 percent of the foreign-born lived in urban places, compared to 26 percent of native whites born of native parents. The urban immigrant was blamed for the real and imagined evils of the city, including crime and poverty. Immigration in the first decade of the 20th century reached 8,795,386, the highest number in the country's history to date, followed by the second highest number, 5,735,811, in 1911-1920. More than 1 million immigrants entered the United States in 1905, 1906, 1907, 1910, 1913, and 1914. By the end of World War I, the era of mass migration was brought to a close by the enactment of increasingly restrictive legislation.

Legislation enacted during World War I, the Immigration Act of February 5, 1917, codified existing restrictions on immigration and added new ones. Enacted over President Wilson's veto, the 1917 Act established the Asiatic Barred Zone, which further restricted the entry of Orientals. It also prohibited the entry of aliens over 16 who were unable to read in any language, a measure specifically intended to curtail immigration from southeastern Europe. Literacy provisions had been passed previously in 1896, 1913, and 1915, and vetoed successively by Presidents Cleveland, Taft, and Wilson.

In his 1915 veto message, President Wilson charged that the literacy test marked a sharp departure from the traditional American belief in "the right of political asylum" which had heretofore characterized American immigration policy. Quoting from his message:

> Hitherto we have generously kept our doors open to all who were not unfitted by reason of disease or incapacity for self support or such personal records and antecedents, as were likely to make them, a menace to our peace and order or to the wholesome and essential relationships of life. In this bill it is proposed to turn away from tests of character and of quality and impose tests which exclude and restrict; for the new tests here embodied are not tests of quality or of character or of personal fitness, but tests of opportunity. Those who come seeking opportunity are not to be admitted unless they have already had one of the

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[5] U.S. Immigration Commission. Abstracts of Reports. Senate Doc. 747, 61st Cong., 3d Sess., 1910-11. p. 37-38.

> chief of the opportunities they seek, the opportunity of education. The object of such provisions is restriction, not selection.[6]

President Wilson went on to note, "If the people of this country have made up their minds to limit the number of immigrants by arbitrary tests and so reverse the policy of all the generations of Americans that have gone before them, it is their right to do so." However, he did not believe this to be the case.

Two years later, a wartime Congress overrode a subsequent veto by President Wilson, and the literacy requirement became law. Under the combined pressure of wartime nationalism and post-war isolationism, the economics of increasing urbanization, and a concern about the large numbers of immigrants entering from southeastern Europe, the American public, as reflected by the Congress, opted to reverse the policy of providing political asylum for one of comparative restriction. Numerical limitations followed in 1921 and, in varying forms, have remained in effect ever since.

G. THE 1920s: NUMERICAL RESTRICTIONS

Until the 1920s, legal restrictions on immigration had essentially remained qualitative rather than quantitative. That is, there were no restrictions on the number of aliens who could enter, provided that they met the criteria set forth in the law. During the 1920s numerical restrictions were placed on immigration from the Eastern Hemisphere. Western Hemisphere immigration remained numerically unrestricted until 1968.

The temporary Quota Act of May 19, 1921, was followed by the permanent Immigration Act of May 26, 1924, which remained in force until 1952. Under the national origins quota formula which went into effect on July 1, 1929, the annual quota of any nationality was "a number which bears the same ratio to 150,000 as the number of inhabitants in the United States in 1920 having that national origin bears to the number of white inhabitants of the United States in 1920, with a minimum quota of 100 for each nationality."[7] Natives of countries in the "barred zone," encompassing most Asiatic countries, were generally inadmissible as immigrants with certain exceptions.

The movement toward numerical limitations initially reflected a genuine fear of being engulfed by the refugees of war-ravaged Europe, together with the growing nationalism of the United States as an emerging world power and the isolationism which characterized the country following World War I. As the 1920s progressed, the arguments in favor of numerical restrictions were buttressed and shaped by popular biological theories of the period alleging the superiority of certain races. Two statements by Dr. Harry N. Laughlin, a eugenics consultant to the House Judiciary Committee on Immigration and Naturalization in the early 1920s indicate the important role these theories played in the direction taken by immigration policy immediately after World War I:

> We in this country have been so imbued with the idea of democracy, or the equality of all men, that we have left out of consideration the matter of blood or natural born hereditary mental and moral differences. No man who breeds pedigreed plants and animals can afford to neglect this thing . . . .
>
> The National Origins provisions of the immigration control law of 1924 marked the actual turning point from immigration control based on the asylum idea . . . definitely in favor of the biological basis . . . . [8]

H. THE 1930s AND 1940s: REFUGEES AND BRACEROS

The history of U.S. immigration policy from the 1930s to the enactment of the Refugee Act of 1980 was characterized by a tension resulting from the attempt to accommodate our traditional ideal of providing asylum from oppression within the framework of a comparatively restrictive immigration law. This tension resulted in part from the fact that the fortunate congruence in the 19th century between our economic needs and our humanitarian desire to offer refuge to the oppressed no longer exists. We no longer have the manpower requirements which characterized the settling of the wilderness followed by the industrialization of the nation.

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[6] Wilson, Woodrow. Not Tests of Quality but of Opportunity. Reprinted in Immigration and the American Tradition. Moses Rischin, ed., Indianapolis, Bobbs-Merrill Co., Inc., 1976. p. 285-286.

[7] U.S. Congress. House. H. Rept. 1365, 82nd Cong., 2d Sess., Feb. 14, 1952. p. 37.

[8] Quoted by Abba Schwartz. The Open Society. New York, Simon and Schuster, 1968. p. 105-106.

Immigration in the 1930s totaled 528,431, down from 4,107,209 in the 1920s, and accompanied by substantial emigration. Restrictive immigration laws combined with the Depression to slow the immigrant flow to the lowest point since the 1830s. Without question, Hitler was a major "push" factor of the period; Germany led the sending countries, and many more would have come if they had been permitted.

In a campaign speech in October 1932, Herbert Hoover said, "With the growth of democracy in foreign countries, political persecution has largely ceased. There is no longer a necessity for the United States to provide an asylum for those persecuted because of conscience."[9] Hitler came to power shortly thereafter, and proved him tragically wrong. The flight of refugees from Germany began in 1933 and continued for the rest of the decade, to be followed by an even greater exodus of displaced persons throughout Europe after World War II.

The United States accepted an estimated 250,000 refugees from Nazi persecution prior to our entry into the war in 1941.[10] The country was undergoing the worst depression in its history, and efforts to liberalize the immigration law were unsuccessful.

United States motives in the admission of refugees from the 1930s until the present time have combined humanitarian concerns with foreign policy considerations. We have, in effect, traded the wilderness for the world. Our sense of our role as the leader of the Western alliance was a major factor in the passage of special legislation allowing for the admission of displaced persons and refugees in the wake of World War II.

The Displaced Persons Act of 1948 was the first refugee legislation enacted in the nation's history. Together with its subsequent amendments, it provided for the admission of more than 400,000 displaced persons through the end of 1951, by mortgaging future immigration quotas. Poles accounted for one-third of the admissions, followed by German ethnics.[11]

Total immigrant admissions doubled during the 1940s compared to the 1930s, going from 528,431 to 1,035,039. This was still the lowest 10-year figure since the 1830s, exclusive of the preceding decade. Of this number, 354,804 entered from the Western Hemisphere.

The total number of permanent entries from the Western Hemisphere during the 1940s and 1950s was far exceeded by the number of admissions for temporary employment from the Western Hemisphere countries, led overwhelmingly by Mexico. The Mexican bracero program lasted from 1942 until 1964, and authorized the entry of between 4 and 5 million temporary agricultural workers. Significant, although much smaller numbers also entered from the Bahamas, Jamaica, Barbados, British Honduras, Canada, and Newfoundland.

I. THE IMMIGRATION AND NATIONALITY ACT OF 1952

The Immigration and Nationality Act enacted on June 27, 1952, was a major recodification and revision of existing immigration and nationality law. It codified and carried forward, with modifications, the essential elements of both the 1917 and 1924 Acts discussed above, as well as those provisions of the Internal Security Act of September 23, 1950, relating to the exclusion of Communists.

The 1952 legislation reflected the cold war atmosphere and anti-communism of the period, following World War II and at the onset of the Korean War. The law was, Robert Divine asserted, "in essence an act of conservatism rather than of intolerance."[12] The difference between the climate of opinion in the 1920s and the early 1950s is apparent in the following statement in the 1950 report of the Senate Judiciary Committee, "Without giving credence to any theory of Nordic superiority, the subcommittee believes that the adoption of the national origins quota formula was a rational and logical method of numerically restricting immigration in such a manner as to best preserve the sociological and cultural balance of the United States."[13] In contrast to the 1920s, the case for the national origins quota system in the 1950s was not generally argued on the grounds of racial superiority, but on sociological theories of the time relating to cultural assimilation. The provisions effectively prohibiting entry from most Asian countries were also slightly relaxed by the 1952 Act.

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[9] Quoted by Robert Divine. American Immigration Policy, 1924–1952. New Haven, Yale University Press, 1957. p. 92.

[10] Ibid., p. 104.

[11] An Immigration and Naturalization Service (INS) table showing refugees and asylees granted permanent resident status by region and selected country of birth, 1946–1987, appears as Table #2, at p. 433.

[12] Divine, p. 190.

[13] U.S. Congress. Senate. S. Rept. 1515, 81st Cong., 2d Sess. p. 455.

However, the legislation was characterized by supporters and opponents alike as a restrictionist measure, and was a severe disappointment to those who had hoped for a liberalization of the immigration law. In particular, the continuation of the national origins quota system was viewed by critics of the legislation as being inappropriate to the needs of U.S. foreign policy. Foremost among these critics was President Truman, whose veto was overridden by a vote of 278 to 113 in the House, and 57 to 26 in the Senate. Quoting from his veto message:

> Today, we are "protecting" ourselves as we were in 1924, against being flooded by immigrants from Eastern Europe. This is fantastic. The countries of Eastern Europe have fallen under the Communist yoke—they are silenced, fenced off by barbed wire and minefields—no one passes their borders but at the risk of his life. We do not need to be protected against immigrants from these countries—on the contrary we want to stretch out a helping hand, to save those who have managed to flee into Western Europe, to succor those who are brave enough to escape from barbarism, to welcome and restore them against the day when their countries will, as we hope, be free again . . . . These are only a few examples of the absurdity, the cruelty of carrying over into this year of 1952 the isolationist limitations of our 1924 law.
>
> In no other realm of our national life are we so hampered and stultified by the dead hand of the past, as we are in this field of immigration.[14]

In addition to continuing the national origins quota system for the Eastern Hemisphere, the 1952 Act also established a four-category selection system. Fifty percent of each national quota was allocated for first preference distribution to aliens with high education or exceptional abilities, and the remaining three preference categories were divided among specified relatives of U.S. citizens and permanent resident aliens. This four-point selection system was the antecedent of our current preference system, which places higher priority on family reunification than on needed skills. However, under the 1952 law national origins remained the determining factor in immigrant admissions, and Northern and Western Europe were heavily favored. As in the past, the Western Hemisphere was not subject to numerical limitations.

Immigration during the decade 1951-1960 totaled 2,515,479, the highest since the 1920s. This was not surprising, since the two intervening decades included the depression of the 1930s and World War II. The gap between Eastern and Western Hemisphere immigration also narrowed: of the 2.5 million entries, almost a million entered from the Western Hemisphere.

Less than half of the immigrants who entered during the 1950s were admitted under the quota system. While many came under special temporary laws enacted to permit the admission of refugees and family members outside the quotas, many others entered as nonquota immigrants (e.g., from the Western Hemisphere) under the basic law. The gradual recognition that the national origins quota system was not functioning effectively as a means of regulating immigration was an important factor leading to the major policy revision which came in 1965.

J. REFUGEE ADMISSIONS IN THE 1950s AND 1960s

Major refugee admissions occurred outside the national origins quota system during the 1950s. The Refugee Relief Act of August 7, 1953, and the August 31, 1954 amendments authorized the admission of 214,000 refugees from war-torn Europe and escapees from Communist-dominated countries. Thirty percent of the admissions during the life of the Act were Italians, followed by Germans, Yugoslavs, and Greeks.

The Refugee Relief Act originated as an administration bill, and combined humanitarian concern for the refugees and escapees with "international political considerations." Quoting from President Eisenhower's letter which accompanied the draft legislation:

> These refugees, escapees, and distressed peoples now constitute an economic and political threat of constantly growing magnitude. They look to traditional American humanitarian concern for the oppressed. International political considerations are also factors which are involved. We should take reasonable steps to help these people to the extent that we share the obligation of the free world.[15]

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[14] U.S. Congress. House. H. Doc. 520, 82nd Cong. 2nd Sess., June 25, 1952. p. 5.

[15] U.S. Congress. Senate. Final Report of the Administrator of the Refugee Relief Act of 1953, as amended. Senate Committee Print, 85th Cong., 1st Sess., Nov. 15, 1957. p. 1.

In particular, the inclusion of the category of "escapees" from Communist domination in this and subsequent refugee legislation reflected the preoccupations of this Cold War period. This concern was also a major factor in the admission of refugees from the unsuccessful Hungarian revolution of October 1956. A total of 38,000 Hungarian refugees were eventually admitted to the United States, 6,130 with Refugee Relief Act visas and the remainder under the parole provision of the Immigration and Nationality Act.

The Act of September 11, 1957, sometimes referred to as the "Refugee-Escapee Act," provided for the admission of certain aliens who were eligible under the terms of the Refugee Relief Act, as well as "refugee-escapees," defined as persons fleeing persecution in Communist countries or countries in the Middle East. This was the basis for the definition of "refugee" incorporated in the Immigration and Nationality Act from 1965 until 1980. A total of 29,000 entered under the temporary 1957 refugee provisions, led by Hungarians, Koreans, Yugoslavs, and Chinese. Many entered with visas authorized by but unused under the expired Refugee Relief Act. In addition, the 1957 legislation repealed the quota deductions required by the mortgages incurred under the Displaced Persons Act.

During the 1960s, refugees from persecution in Communist dominated countries in the Eastern Hemisphere and from countries in the Middle East continued to be admitted, first under the Fair Share Law, enacted July 14, 1960, and subsequently under the Immigration and Nationality Act. Approximately 19,700 refugees entered under the 1960 legislation. Its primary purpose was to enable the United States to participate in an international effort to close the refugee camps which had been in operation in Europe since the end of World War II. U.S. participation was limited to one-fourth of the total number resettled.

Cuban refugees began entering the United States with the fall of the Batista government in 1959, and continued throughout the 1960s and, in smaller numbers, the 1970s. Approximately 700,000 Cuban refugees had entered the United States prior to new influx which began in April 1980. In the past, the United States has accepted the Cubans as refugees from communism through a variety of legal means.

K. THE IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1965 AND THEIR AFTERMATH

The 1965 amendments to the 1952 Act repealed the national origins quota system and, according to one authority, "represented the most far-reaching revision of immigration policy in the United States since the First Quota Act of 1921."[16] In place of nationality and ethnic considerations, the Immigration and Nationality Act amendments of October 3, 1965 (P.L. 89-236; 79 Stat. 911) substituted a system based primarily on reunification of families and needed skills.

The circumstances which led to this major shift in policy in 1965 were a complex combination of changing public perceptions and values, politics, and legislative compromise. Public support for the repeal of the national origins quota system reflected genuine changes in public attitudes toward race and national origins. It can be argued that the 1965 immigration legislation was as much a product of the mid-1960s and the heavily Democratic 89th Congress which also produced major civil rights legislation, as the 1952 Act had been a product of the Cold War period of the early 1950s.

The 1965 amendments replaced the national origins quota system as the primary control of Eastern Hemisphere immigration with an annual ceiling on Eastern Hemisphere immigration of 170,000 and a 20,000 per country limit. Within these restrictions, immigrant visas were distributed according to a seven-category preference system placing priority, in order, on family reunification, attracting needed skills, and refugees. The 1965 law also provided that effective July 1, 1968, Western Hemisphere immigration would be limited by an annual ceiling of 120,000, without per-country limits or a preference system.

The Immigration and Nationality Act Amendments of 1976 (P.L. 94-571; 90 Stat. 2703) extended the 20,000 per-country limit and a slightly modified version of the seven-category preference system equally to the Western Hemisphere. The preference system and the per-country limits were applied to the two hemispheres under the separate ceilings of 170,000 for the Eastern Hemisphere, and 120,000 for the Western Hemisphere. Legislation enacted in 1978 (P.L. 95-412; 92 Stat. 907) combined the separate ceilings into a single worldwide ceiling of 290,000 with a single preference system. The Refugee Act of 1980 (P.L. 96-212; 94 Stat. 102) eliminated refugees as a category of the preference system, and set the worldwide ceiling of 270,000, exclusive of refugees.

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[16] Harper, Elizabeth J. Immigration Laws of the United States, 3d ed. Indianapolis, Bobbs-Merrill Co., Inc., 1975. p. 38.

The major source of immigration to the United States has shifted since 1965 from Europe to Latin America and Asia, reversing the trend of nearly two centuries. According to the *1987 Statistical Yearbook of the Immigration and Naturalization Service* (p. xix xx), Europe accounted for 50 percent of U.S. immigration during the decade fiscal years 1955–64, followed by North America (defined by INS to include Mexico, the Caribbean, and Central America) and Asia at 8 percent. In fiscal year 1987, Asia was highest at 43 percent, followed by North America still at 36 percent, and Europe at 10 percent. In order, the countries exceeding 20,000 immigrants in fiscal year 1987 were Mexico, the Philippines, Korea, Cuba, India, Mainland China, the Dominican Republic, Vietnam, and Jamaica.

These figures reflect a shift in both accessibility and demand by the sending countries. For example, Asian immigration was severely limited prior to the 1965 amendments, and has subsequently been augmented by the large number of Indochinese refugees adjusting to immigrant status outside the numerical limits. Western Hemisphere immigration in 1987 is the same as it was in the decade prior to the 1965 amendments, despite the adoption of numerical limits beginning in 1968. On the other hand, Irish immigration has fallen from 6,307 in fiscal year 1964 to 1,839 in fiscal year 1986, with 734 entering under the preference system and the majority entering as the immediate relatives of U.S. citizens. Ireland had been heavily favored under the national origins quota system. It is commonly assumed that many Irish would like to immigrate to the United States, but lack the necessary family relationships or skills to qualify under the preference system.

L. THE 1970s AND 1980s: IMMIGRATION ISSUES, REVIEW, AND REVISION

The patterns of immigration and the policy considerations relating to it in the 1970s resembled in some respects those of the 1950s after the enactment of the Immigration and Nationality Act. In both decades, the entry of aliens outside the qualitative and quantitative restrictions of the basic law—both illegally as undocumented aliens, and legally as refugees—was increasingly the dominant pattern in immigration and the basis for the major issues confronting the Congress. Legislative response to the issue of refugees in 1980 and undocumented aliens in 1986 was followed in 1987 by a shift in congressional attention to legal immigration.

The 1981 report of the Select Committee on Immigration and Refugee Policy has contributed to the recent and ongoing congressional review of immigration issues. The 16-member Select Commission was created by legislation enacted in 1978 (P.L. 95–412; 92 Stat 907) to conduct a study and evaluation of immigration and refugee laws, policies, and procedures. Its basic conclusion was that controlled immigration had been and continued to be in the national interest, and this underlay many of its recommendations. The Commission's recommendations were summed up as follows by Chairman Theodore Hesburgh in his introduction:

> We recommend closing the back door to undocumented/illegal migration, opening the front door a little more to accommodate legal migration in the interests of this country, defining our immigration goals clearly and providing a structure to implement them effectively, and setting forth procedures which will lead to fair and efficient adjudication and administration of U.S. immigration laws.[17]

M. REFUGEES AND THE REFUGEE ACT OF 1980

During the 5-year period, 1975–1980, refugees and refugee-related issues dominated congressional concern with immigration more than they had since the years following World War II. Beginning with the fall of Vietnam and Cambodia in April 1975, this period saw the admission of more than 400,000 Indochinese refugees, the enactment of major amendments to the Immigration and Nationality Act in the form of the Refugee Act of 1980, and the exodus from Mariel Harbor, Cuba to Southern Florida.

The 1980 refugee legislation was enacted in part in response to Congress' increasing frustration with the difficulty of dealing with the ongoing large-scale Indochinese refugee flow under the existing ad hoc refugee admission and resettlement mechanisms. By the end of the 1970s, a consensus had been reached that a more coherent and equitable approach to refugee admission and resettlement was needed. The result was the amendments to the Immigration and Nationality Act contained in the Refugee Act of 1980, enacted on March 17, 1980 (P.L. 96–212; 94 Stat. 102).

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[17] Ibid., p. 3.

The Refugee Act repealed the ideological and geographic limitations which had previously favored refugees fleeing Communism or from countries in the Middle East and redefined "refugee" to conform with the definition used in the United Nations Protocol and Convention Relating to the Status of Refugees. The term "refugee" is now defined by the Immigration and Nationality Act as a person who is unwilling or unable to return to his country of nationality or habitual residence because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The 1980 amendments made provision for both a regular flow and the emergency admission of refugees, following legislatively prescribed consultation with the Congress. In addition, the law authorized Federal assistance for the resettlement of refugees.

Shortly after the enactment of the Refugee Act of 1980, large numbers of Cubans entered the United States through Southern Florida, totaling an estimated 125,000, along with continuing smaller numbers of Haitians. The Carter administration was unwilling to classify either group as refugees, and no action was taken on the special legislation sought by the administration. Beginning in 1984, the Reagan administration adjusted the status of the majority of the Cubans under P.L. 89-732, 1966 legislation enacted in response to the Cuban refugee situation in the 1960s. However, the status of the Cuban/Haitian entrants was not finally resolved until enactment of the Immigration Reform and Control Act of 1986, which included special legalization provisions.

N. ILLEGAL IMMIGRATION AND THE IMMIGRATION REFORM AND CONTROL ACT OF 1986

Immigration legislation focusing on illegal immigration was considered and passed by the 99th Congress, and enacted as P.L. 99-603 (Act of November 6, 1986; 100 Stat. 3359), the Immigration Reform and Control Act (IRCA) of 1986. P.L. 99-603 consists primarily of amendments to the basic immigration law, the Immigration and Nationality Act (INA) of 1952, as amended (8 U.S.C. 1101 *et seq.*).

Reform of the law relating to the control of illegal immigration had been under consideration for 15 years, since the early 1970s. The 1986 legislation marked the culmination of bipartisan efforts both by Congress and the Executive branch under four Presidents. As an indication of the growing magnitude of the problem, the annual apprehension of undocumented aliens by the Department of Justice's Immigration and Naturalization Service (INS) increased from 505,949 in 1972, the first year legislation aimed at controlling illegal immigration received House action, to 1,767,400 in 1986. INS apprehensions dropped to 1,190,488 in FY87.

The prospect of employment at U.S. wages generally has been agreed to be the economic magnet that draws aliens here illegally. The principal legislative remedy proposed in the past and included in the new law is employer sanctions, or penalties for employers who knowingly hire aliens unauthorized to work in the United States. The other major provisions of the new law directly relate to employer sanctions. First, in an attempt to deal humanely with aliens who established roots here before the change in policy represented by the new Act, a legalization program was established that provides legal status for otherwise eligible aliens who had been here illegally since prior to 1982. Second, the legislation sought to respond to the apparent heavy dependence of seasonal agriculture on illegal workers by creating a 7-year special agricultural worker program, and by streamlining the previously existing "H-2" temporary worker program to expedite availability of alien workers and to provide statutory protections for U.S. and alien labor.

O. LEGAL IMMIGRATION

Following the enacting in 1986 of major legislation relating to illegal immigration, congressional legislative attention shifted to legal immigration, including the numerical limits on permanent immigration. This is an issue for a number of reasons. The numerical limits and preference system regulating the admission of legal immigrants originated in 1965, with some subsequent amendments. Since that time, and particularly in recent years, concern has arisen over the greater number of immigrants admitted on the basis of family reunification compared to the number of "independent" non-family immigrants, and over the limited number of visas available under the preference system to certain countries. There is also concern about the backlogs under the existing preference system and, by some, about the admission of immediate relatives of U.S. citizens outside the numerical limits. Major legislation addressing these concerns passed the Senate and was introduced in the House in the 100th Congress (1987-1988). However, only temporary legislation addressing limited concerns passed both, leaving further consideration of a full-scale revision of legal immigration to the future.

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Q. TABLE #1—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1987

Region and country of last residence [1]	1820	1821–30	1831–40	1841–50	1851–60
All countries	8,385	143,439	599,125	1,713,251	2,598,214
Europe	7,690	98,797	495,681	1,597,442	2,452,577
Austria-Hungary	(2)	(2)	(2)	(2)	(2)
Austria	(3)	(3)	(3)	(3)	(3)
Hungary	(3)	(3)	(3)	(3)	(3)
Belgium	1	27	22	5,074	4,738
Czechoslovakia	(4)	(4)	(4)	(4)	(4)
Denmark	20	169	1,063	539	3,749
France	371	8,497	45,575	77,262	76,358
Germany	968	6,761	152,454	434,626	951,667
Greece	—	20	49	16	31
Ireland [5]	3,614	50,724	207,381	780,719	914,119
Italy	30	409	2,253	1,870	9,231
Netherlands	49	1,078	1,412	8,251	10,789
Norway-Sweden	3	91	1,201	13,903	20,931
Norway	(6)	(6)	(6)	(6)	(6)
Sweden	(6)	(6)	(6)	(6)	(6)
Poland	5	16	369	105	1,164
Portugal	35	145	829	550	1,055
Romania	(7)	(7)	(7)	(7)	(7)
Spain	139	2,477	2,125	2,209	9,298
Switzerland	31	3,226	4,821	4,644	25,011
U.S.S.R.	14	75	277	551	457
United Kingdom [5]	2,410	25,079	75,810	267,044	423,974
Yugoslavia	(8)	(8)	(8)	(8)	(8)
Other Europe	—	3	40	79	5
Asia	6	30	55	141	41,538
China [9]	1	2	8	35	41,397
Hong Kong	(10)	(10)	(10)	(10)	(10)
India	1	8	39	36	43
Iran	(10)	(10)	(10)	(10)	(10)
Israel	(10)	(10)	(10)	(10)	(10)
Japan	(11)	(11)	(11)	(11)	(11)
Korea	(10)	(10)	(10)	(10)	(10)
Philippines	(12)	(12)	(12)	(12)	(12)
Turkey	1	20	7	59	83
Vietnam	(10)	(10)	(10)	(10)	(10)
Other Asia	3	—	1	11	15
America	387	11,564	33,424	62,469	74,720
Canada and Newfoundland [13] [14]	209	2,277	13,624	41,723	59,309
Mexico [14]	1	4,817	6,599	3,271	3,078
Caribbean	164	3,834	12,301	13,528	10,660
Cuba	(10)	(10)	(10)	(10)	(10)
Dominican Republic	(10)	(10)	(10)	(10)	(10)
Haiti	(10)	(10)	(10)	(10)	(10)
Jamaica	(6)	(6)	(6)	(6)	(6)
Other Caribbean	164	3,834	12,301	13,528	10,660
Central America	2	105	44	368	449
South America	11	531	856	3,579	1,224
Argentina	(10)	(10)	(10)	(10)	(10)
Colombia	(10)	(10)	(10)	(10)	(10)
Ecuador	(10)	(10)	(10)	(10)	(10)
Other South America	11	531	856	3,579	1,224
Other America	(17)	(17)	(17)	(17)	(17)
Africa	1	16	54	55	210
Australia and New Zealand	—	—	—	—	—
Pacific Islands (U.S. adm.)	—	—	—	—	—
Not specified [17]	301	33,032	69,911	53,144	29,169

See page 432 for footnotes.

Q. TABLE #1—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1987—Continued

Region and country of last residence [1]	1861–70	1871–80	1881–90	1891–1900	1901–10
All countries	2,314,824	2,812,191	5,246,613	3,687,584	8,795,386
Europe	2,065,141	2,271,925	4,735,484	3,555,352	8,056,040
Austria-Hungary	7,800	72,969	353,719	[18] 592,707	[18] 2,145,266
Austria	(3)	(3)	(3)	(3)	(3)
Hungary	(3)	(3)	(3)	(3)	(3)
Belgium	6,734	7,221	20,177	18,167	41,635
Czechoslovakia	(4)	(4)	(4)	(4)	(4)
Denmark	17,094	31,771	88,132	50,231	65,285
France	35,986	72,206	50,464	30,770	73,379
Germany	787,468	718,182	1,452,970	[18] 505,152	[18] 341,498
Greece	72	210	2,308	15,979	167,519
Ireland [5]	435,778	436,871	655,482	388,416	339,065
Italy	11,725	55,759	307,309	651,893	2,045,877
Netherlands	9,102	16,541	53,701	26,758	48,262
Norway-Sweden	109,298	211,245	568,362	321,281	440,039
Norway	(6)	95,323	176,586	95,015	190,505
Sweden	(6)	115,922	391,776	226,266	249,534
Poland	2,027	12,970	51,806	[18] 96,720	(18)
Portugal	2,658	14,082	16,978	27,508	69,149
Romania	(7)	[7] 11	6,348	12,750	53,008
Spain	6,697	5,266	4,419	8,731	27,935
Switzerland	23,286	28,293	81,988	31,179	34,922
U.S.S.R	2,512	39,284	213,282	[18] 505,290	[18] 1,597,306
United Kingdom [5]	606,896	548,043	807,357	271,538	525,950
Yugoslavia	(8)	(8)	(8)	(8)	(8)
Other Europe	8	1,001	682	282	39,945
Asia	64,759	124,160	69,942	74,862	323,543
China [9]	64,301	123,201	61,711	14,799	20,605
Hong Kong	(10)	(10)	(10)	(10)	(10)
India	69	163	269	68	4,713
Iran	(10)	(10)	(10)	(10)	(10)
Israel	(10)	(10)	(10)	(10)	(10)
Japan	186	149	2,270	25,942	129,797
Korea	(10)	(10)	(10)	(10)	(10)
Philippines	(12)	(12)	(12)	(12)	(12)
Turkey	131	404	3,782	30,425	157,369
Vietnam	(10)	(10)	(10)	(10)	(10)
Other Asia	72	243	1,910	3,628	11,059
America	166,607	404,044	426,967	38,972	361,888
Canada and Newfoundland [13] [14]	153,878	383,640	393,304	3,311	179,226
Mexico [14]	2,191	5,162	[15] 1,913	[15] 971	49,642
Caribbean	9,046	13,957	29,042	33,066	107,548
Cuba	(10)	(10)	(10)	(10)	(10)
Dominican Republic	(10)	(10)	(10)	(10)	(10)
Haiti	(10)	(10)	(10)	(10)	(10)
Jamaica	(16)	(16)	(16)	(16)	(16)
Other Caribbean	9,046	13,957	29,042	33,066	107,548
Central America	95	157	404	549	8,192
South America	1,397	1,128	2,304	1,075	17,280
Argentina	(10)	(10)	(10)	(10)	(10)
Colombia	(10)	(10)	(10)	(10)	(10)
Ecuador	(10)	(10)	(10)	(10)	(10)
Other South America	1,397	1,128	2,304	1,075	17,280
Other America	(17)	(17)	(17)	(17)	(17)
Africa	312	358	857	350	7,368
Australia and New Zealand	36	9,886	7,017	2,740	11,975
Pacific Islands (U.S. adm.)	—	1,028	5,557	1,225	1,049
Not specified [17]	17,969	790	789	14,063	[22] 33,523

See page 432 for footnotes.

Q. TABLE #1—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1987—Continued

Region and country of last residence [1]	1911–20	1921–30	1931–40	1941–50	1951–60
All countries	5,735,811	4,107,209	528,431	1,035,039	2,515,479
Europe	4,321,887	2,463,194	347,552	621,124	1,325,727
Austria-Hungary	[18] 896,342	63,548	11,424	28,329	103,743
Austria	453,649	32,868	[18] 3,563	[18] 24,860	67,106
Hungary	442,693	30,680	7,861	3,469	36,637
Belgium	33,746	15,846	4,817	12,189	18,575
Czechoslovakia	[4] 3,426	102,194	14,393	8,347	918
Denmark	41,983	32,430	2,559	5,393	10,984
France	61,897	49,610	12,623	38,809	51,121
Germany	[18] 143,945	412,202	[18] 114,058	[18] 226,578	477,765
Greece	184,201	51,084	9,119	8,973	47,608
Ireland [5]	146,181	211,234	10,933	19,789	48,362
Italy	1,109,524	455,315	68,028	57,661	185,491
Netherlands	43,718	26,948	7,150	14,860	52,277
Norway-Sweden	161,469	165,780	8,700	20,765	44,632
Norway	66,395	68,531	4,740	10,100	22,935
Sweden	95,074	97,249	3,960	10,665	21,697
Poland	[18] 4,813	227,734	17,026	7,571	9,985
Portugal	89,732	29,994	3,329	7,423	19,588
Romania	13,311	67,646	3,871	1.076	1.039
Spain	68,611	28,958	3,258	2,898	7,894
Switzerland	23,091	29,676	5,512	10,547	17,675
U.S.S.R.	[18] 921,201	61,742	[20] 1,356	[20] 548	671
United Kingdom [5]	341,408	[21] 339,570	[21] 31,572	[21] 139,286	[21] 202,869
Yugoslavia	[8] 1,888	49,064	5,835	1,576	8,225
Other Europe	31,400	42,619	11,989	8,506	16,305
Asia	247,236	112,059	16,081	32,360	153,249
China [9]	21,278	29,907	4,928	16,709	9,657
Hong Kong	(10)	(10)	(10)	(10)	15,544
India	2,082	1,886	496	1,761	1,973
Iran	(10)	(10)	(10)	(10)	3,388
Israel	(10)	(10)	(10)	(10)	25,476
Japan	83,837	33,462	1,948	1,555	46,250
Korea	(10)	(10)	(10)	(10)	6,231
Philippines	(12)	(12)	(12)	(12)	19,307
Turkey	134,066	33,824	1,065	798	3,519
Vietnam	(10)	(10)	(10)	(10)	335
Other Asia	5,973	12,980	7,644	11,537	21,569
America	1,143,671	1,516,716	160,037	354,804	996,944
Canada and Newfoundland [13] [14]	742,185	924,515	108,527	171,718	377,952
Mexico [14]	219,004	459,287	22,319	60,589	299,811
Caribbean	123,424	74,899	15,502	49,725	123,091
Cuba	(10)	(10)	(10)	(10)	78,948
Dominican Republic	(10)	(10)	(10)	(10)	9,897
Haiti	(10)	(10)	(10)	(10)	4,442
Jamaica	(16)	(16)	(16)	(16)	[16] 8,869
Other Caribbean	123,424	74,899	15,502	49,725	[16] 20,935
Central America	17,159	15,769	5,861	21,665	44,751
South America	41,899	42,215	7,803	21,831	91,628
Argentina	(10)	(10)	(10)	(10)	19,486
Columbia	(10)	(10)	(10)	(10)	18,048
Ecuador	(10)	(10)	(10)	(10)	9,841
Other South America	41,899	42,215	7,803	21,831	44,253
Other America	(17)	(17) 31	25	29,276	59,711
Africa	8,443	6,286	1,750	7,367	14,092
Australia and New Zealand	12,348	8,299	2,231	13,805	11,506
Pacific Islands (U.S. adm.)	1,079	427	[12] 780	[12] 5,437	1,470
Not specified [17]	1,147	228	—	142	12,491

See page 432 for footnotes.

Q. TABLE #1—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1987—Continued

Region and country of last residence [1]	1961–70	1971–80	1981	1982	1983
All countries	3,321,677	4,493,314	596,600	594,131	559,763
Europe	1,123,492	800,368	66,695	69,174	58,867
Austria-Hungary	26,022	16,028	948	981	1,065
Austria	20,621	9,478	367	339	433
Hungary	5,401	6,550	581	642	632
Belgium	9,192	5,329	467	559	538
Czechoslovakia	3,273	6,023	793	960	946
Denmark	9,201	4,439	506	463	513
France	45,237	25,069	1,745	1,994	2,061
Germany	190,796	74,414	6,552	6,726	7,185
Greece	85,969	92,369	4,361	3,472	2,997
Ireland [5]	32,966	11,490	902	949	1,101
Italy	214,111	129,368	4,662	3,644	3,225
Netherlands	30,606	10,492	999	1,053	1,152
Norway-Sweden	32,600	10,472	1,163	1,216	1,279
Norway	15,484	3,941	331	342	409
Sweden	17,116	6,531	832	874	870
Poland	53,539	37,234	5,014	5,874	6,427
Portugal	76,065	101,710	7,049	3,510	3,231
Romania	2,531	12,393	1,974	3,124	2,543
Spain	44,659	39,141	1,711	1,586	1,507
Switzerland	18,453	8,235	601	626	680
U.S.S.R.	2,465	38,961	9,223	15,462	5,214
United Kingdom [5]	[21] 213,822	137,374	14,997	14,539	14,830
Yugoslavia	20,381	30,540	2,048	1,418	1,382
Other Europe	11,604	9,287	980	1,018	991
Asia	427,642	1,588,178	264,343	313,291	277,701
China [9]	34,764	124,326	25,803	36,984	42,475
Hong Kong	75,007	113,467	4,055	4,971	5,948
India	27,189	164,134	21,522	21,738	25,451
Iran	10,339	45,136	11,105	10,314	11,163
Israel	29,602	37,713	3,542	3,356	3,239
Japan	39,988	49,775	3,896	3,903	4,092
Korea	34,526	267,638	32,663	31,724	33,339
Philippines	98,376	354,987	43,772	45,102	41,546
Turkey	10,142	13,399	2,766	2,864	2,263
Vietnam	4,340	172,820	55,631	72,553	37,560
Other Asia	63,369	244,783	59,588	79,782	70,625
America	1,716,374	1,982,529	246,340	193,505	204,574
Canada and Newfoundland [13] [14]	413,310	169,939	11,191	10,786	11,390
Mexico [14]	453,937	640,294	101,268	56,106	59,079
Caribbean	470,213	741,126	73,301	67,379	73,306
Cuba	208,536	264,863	10,858	8,209	8,978
Dominican Republic	93,292	148,135	18,220	17,451	22,058
Haiti	34,499	56,335	6,683	8,779	8,424
Jamaica	74,906	137,577	23,569	18,711	19,535
Other Caribbean	58,980	134,216	13,971	14,229	14,311
Central America	101,330	134,640	24,509	23,626	24,601
South America	257,954	295,741	35,913	35,448	36,087
Argentina	49,721	29,897	2,236	2,065	2,029
Colombia	72,028	77,348	10,335	8,608	9,658
Ecuador	36,780	50,078	5,129	4,127	4,243
Other South America	99,425	138,418	18,213	20,648	20,157
Other America	19,630	789	158	160	111
Africa	28,954	80,779	15,029	14,314	15,084
Australia and New Zealand	19,562	23,788	1,947	2,009	1,879
Pacific Islands (U.S. adm.)	1,769	1,806	108	138	105
Not specified [17]	3,884	15,866	2,138	1,700	1,553

See page 432 for footnotes.

Q. TABLE #1—IMMIGRATION BY REGION AND SELECTED COUNTRY OF LAST RESIDENCE; FISCAL YEARS 1820–1987—Continued

Region and country of last residence [1]	1984	1985	1986	1987	Total 168 yr 1820–1987
All countries	543,903	570,009	601,708	601,518	53,723,582
Europe	69,879	69,526	69,224	67,967	36,810,805
Austria-Hungary	2,848	2,521	2,604	2,401	4,331,263
Austria	2,351	1,930	2,039	1,769	[3] 621,373
Hungary	495	591	565	632	[3] 537,429
Belgium	787	775	843	859	208,318
Czechoslovakia	693	684	588	715	143,953
Denmark	512	465	544	515	368,560
France	3,335	3,530	3,876	3,809	775,584
Germany	9,375	10,028	9,853	9,923	7,051,146
Greece	3,311	3,487	3,497	4,087	690,739
Ireland [5]	1,096	1,288	1,757	3,032	4,703,249
Italy	6,328	6,351	5,711	4,666	5,340,441
Netherlands	1,313	1,235	1,263	1,303	370,312
Norway-Sweden	1,455	1,557	1,564	1,540	2,140,546
Norway	403	386	367	372	[6] 743,705
Sweden	1,052	1,171	1,197	1,168	[6] 1,242,954
Poland	7,229	7,409	6,540	5,818	567,395
Portugal	3,800	3,811	3,804	4,009	490,044
Romania	2,956	3,764	3,809	2,741	194,895
Spain	2,168	2,278	2,232	2,056	278,253
Switzerland	795	980	923	964	356,159
U.S.S.R	3,349	1,532	1,001	1,139	3,422,912
United Kingdom [5]	16,516	15,591	16,129	15,889	5,068,493
Yugoslavia	1,404	1,521	1,915	1,793	128,990
Other Europe	611	719	771	708	179,553
Asia	247,775	255,164	258,546	248,293	5,140,954
China [9]	29,109	33,095	32,389	32,669	800,153
Hong Kong	12,290	10,795	9,930	8,785	[10] 260,792
India	23,617	24,536	24,808	26,394	372,996
Iran	11,131	13,327	12,031	10,323	[10] 137,257
Israel	4,136	4,279	5,124	4,754	[10] 121,220
Japan	4,517	4,552	4,444	4,711	[11] 445,274
Korea	32,537	34,791	35,164	35,397	[10] 544,010
Philippines	46,985	53,137	61,492	58,315	[12] 823,019
Turkey	1,652	1,690	1,975	2,080	404,384
Vietnam	25,803	20,367	15,010	13,073	[10] 417,492
Other Asia	55,998	55,595	56,179	51,793	814,357
America	208,111	225,519	254,078	265,026	11,049,270
Canada and Newfoundland [13] [14]	15,659	16,354	16,060	16,741	4,236,828
Mexico [14]	57,820	61,290	66,753	72,511	2,707,713
Caribbean	68,368	79,374	98,527	100,615	2,391,996
Cuba	5,699	17,115	30,787	27,363	[10] 661,356
Dominican Republic	23,207	23,861	26,216	24,947	[10] 407,284
Haiti	9,554	9,872	12,356	14,643	[10] 165,587
Jamaica	18,997	18,277	18,918	22,430	[16] 361,787
Other Caribbean	10,911	10,249	10,252	11,232	795,982
Central America	27,626	28,447	30,088	30,366	540,801
South America	38,636	40,052	42,650	44,782	1,062,024
Argentina	2,287	1,925	2,318	2,192	[10] 114,156
Colombia	10,897	11,802	11,213	11,482	[10] 241,419
Ecuador	4,244	4,601	4,518	4,656	[10] 128,217
Other South America	21,208	21,724	24,601	26,452	578,232
Other America	2	2	2	11	109,908
Africa	13,594	15,236	15,500	15,730	261,739
Australia and New Zealand	2,328	2,501	2,423	2,312	138,592
Pacific Islands (U.S. adm.)	163	142	178	166	22,627
Not specified [17]	2,053	1,921	1,759	2,022	299,595

See page 432 for footnotes.

FOOTNOTES TO TABLE #1:

[1] Data for years prior to 1906 relate to country whence alien came; data from 1906–79 and 1984–87 are for country of last permanent residence; and data for 1980–83 refer to country of birth. Because of changes in boundaries, changes in lists of countries, and lack of data for specified countries for various periods, data for certain countries, especially for the total period 1820–1967, are not comparable throughout. Data for specified countries are included with countries to which they belonged prior to World War I.

[2] Data for Austria-Hungary not reported until 1861.

[3] Data for Austria and Hungary not reported separately until 1906.

[4] No data available for Czechoslovakia until 1920.

[5] Prior to 1926, data for Northern Ireland included in Ireland.

[6] Data for Norway and Sweden not reported separately until 1871.

[7] No data available for Romania until 1880.

[8] In 1920, a separate enumeration was made for the Kingdom of Serbs, Croats, and Slovenes. Since 1922, the Serb, Croat, and Slovene Kingdom recorded as Yugoslavia.

[9] Beginning in 1957, China includes Taiwan.

[10] Data not reported separately until 1951.

[11] No data available for Japan until 1861.

[12] From 1934–50. Philippines included in the Pacific Islands. Prior to 1934, Philippines recorded in separate tables as insular travel.

[13] Prior to 1920, Canada and Newfoundland recorded as British North America. From 1820–98, figures include all British North America possessions.

[14] Land arrivals not completely enumerated until 1908.

[15] No data available for Mexico from 1886–93.

[16] Data for Jamaica not collected until 1953. In prior years, consolidated under British West Indies, which is included in "Other Caribbean."

[17] Included in countries "Not specified" until 1925.

[18] From 1899–1919, data for Poland included in Austria-Hungary, Germany, and U.S.S.R.

[19] From 1938–45, data for Austria included in Germany.

[20] From 1931–50, U.S.S.R. reported as European U.S.S.R. and Asian U.S.S.R. For other periods shown, total U.S.S.R. reported in Europe.

[21] Since 1925, data for United Kingdom refer to England, Scotland, Wales, and Northern Ireland.

[22] Includes 32,897 persons returning in 1906 to their homes in the United States.

— Represents zero.

Note.—From 1820–67, figures represent alien passengers arrived at seaports; from 1868–91 and 1895–95, immigrant aliens arrived; from 1892–94 and 1898–1987, immigrant aliens admitted for permanent residence. From 1892–1903, aliens entering by cabin class were not counted as immigrants. Land arrivals were not completely enumerated until 1908.

See Glossary for fiscal year definitions. For this table, fiscal year 1843 covers 9 months ending September 1843; fiscal years 1832 and 1850 cover 15 months ending December 31 of the respective years; and fiscal year 1868 covers 6 months ending June 30, 1868.

Source: U.S. Immigration and Naturalization Service, 1987 Statistical Yearbook, pp. 2–5.

R. TABLE #2—REFUGEES AND ASYLEES GRANTED LAWFUL PERMANENT RESIDENT STATUS BY REGION AND SELECTED COUNTRY OF BIRTH; FISCAL YEARS 1946–87

Region and country of birth	Total	1946–50	1951–60	1961–70	1971–80	1981–87
All countries	2,212,891	213,347	492,371	212,843	539,447	754,883
Europe	887,858	211,983	456,146	55,235	71,858	92,636
Albania	3,953	29	1,409	1,952	395	168
Austria	16,981	4,801	11,487	233	185	275
Bulgaria	5,078	139	1,138	1,799	1,238	764
Czechoslovakia	34,040	8,449	10,719	5,709	3,646	5,517
Estonia	11,283	7,143	4,103	16	2	19
Germany [1]	100,768	36,633	62,860	665	143	467
Greece	30,610	124	28,568	586	478	854
Hungary	72,976	6,086	55,740	4,044	4,358	2,748
Italy	63,081	642	60,657	1,198	346	238
Latvia	38,295	21,422	16,783	49	16	25
Lithuania	27,371	18,694	8,569	72	23	13
Netherlands	17,615	129	14,336	3,134	8	8
Poland	190,833	78,529	81,323	3,197	5,882	21,902
Portugal	5,062	12	3,650	1,361	21	18
Romania	50,453	4,180	12,057	7,158	6,812	20,246
Spain	10,218	1	246	4,114	5,317	540
U.S.S.R.	114,525	14,072	30,059	871	31,309	38,214
Yugoslavia	84,419	9,816	44,755	18,299	11,297	252
Other Europe	10,297	1,082	7,687	778	382	368
Asia	812,576	1,106	33,422	19,895	210,683	547,470
Afghanistan	16,142	—	1	—	542	15,599
Cambodia	102,181	—	—	—	7,739	94,442
China [2]	37,889	319	12,008	5,308	13,760	6,494
Hong Kong	8,345	—	1,076	2,128	3,468	1,673
Indonesia	17,332	—	8,253	7,658	222	1,199
Iran	23,794	118	192	58	364	23,062
Iraq	14,040	—	130	119	6,851	6,940
Japan	4,519	3	3,803	554	56	103
Korea	4,604	—	3,116	1,316	65	107
Laos	132,449	—	—	—	21,690	110,759
Syria	3,254	4	119	383	1,336	1,412
Thailand	19,517	—	15	13	1,241	18,248
Turkey	6,124	603	1,427	1,489	1,193	1,412
Vietnam	410,901	—	2	7	150,266	260,626
Other Asia	11,485	59	3,280	862	1,890	5,394
Africa	25,812	20	1,768	5,486	2,991	15,547
Egypt	8,514	8	1,354	5,396	1,473	283
Ethiopia	14,723	—	61	2	1,307	13,353
Other Africa	2,575	12	353	88	211	1,911
Oceania	160	7	75	21	37	20
North America	483,599	163	831	132,068	252,633	97,904
Cuba	472,823	3	6	131,557	251,514	89,743
El Salvador	916	—	—	1	45	770
Haiti	4,613	—	—	9	93	4,511
Nicaragua	2,217	1	1	3	36	2,176
Other North America	3,130	159	824	498	945	704
South America	2,755	32	74	123	1,244	1,282
Chile	896	—	5	4	420	467
Other South America	1,859	32	69	119	824	815
Unknown or not reported	131	36	55	15	1	24

[1] Includes Federal Republic of Germany and German Democratic Republic.

[2] Includes Mainland China and Taiwan.

—Represents zero.

Note.—See Glossary for fiscal year definitions.

Source: U.S. Immigration and Naturalization Service, 1987 Statistical Yearbook, p. 63.

XI. MISCELLANEOUS LISTS AND TABLES RELATING TO IMMIGRATION AND NATIONALITY

A. List of United States Code Provisions Corresponding to Provisions in the Immigration and Nationality Act

(Source: Office of the Legislative Counsel, House of Representatives; as of January 1, 1989)

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
TITLE I	Subchapter I.
101	1101.
102	1102.
103	1103.
104	1104.
105	1105.
106	1105a.
TITLE II	Subchapter II.
Chapter 1	Part I.
201	1151.
202	1152.
203	1153.
204	1154.
205	1155.
206	1156.
207	1157.
208	1158.
209	1159.
210	1160.
210A	1161.
Chapter 2	Part II.
211	1181.
212	1182.
213	1183.
214	1184.
[A. of 6/18/54	1184a] Philippine Trader provision.
215	1185.
216	1186a.
[§ 584 in PL 100-202	1186b] Amerasian children provision.
217	1187.
218	1188.
Chapter 3	Part III.
221	1201.
222	1202.
223	1203.
224	1204.
Chapter 4	Part IV.
231	1221.
232	1222.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
234	1224.
235	1225.
236	1226.
237	1227.
238	1228.
239	1229.
240	1230.
Chapter 5	Part V.
241	1251.
242	1252.
242A	1252a.
243	1253.
244	1254.
245	1255.
245A	1255a.
[§ 13 of PL 85-316	1255b] Adjustment of Diplomatic Status.
246	1256.
247	1257.
248	1258.
249	1259.
250	1260.
Chapter 6	Part VI.
251	1281.
252	1282.
253	1283.
254	1284.
255	1285.
256	1286.
257	1287.
Chapter 7	Part VII.
261	1301.
262	1302.
263	1303.
264	1304.
265	1305.
266	1306.
Chapter 8	Part VIII.
271	1321.
272	1322.
273	1323.
274	1324.
274A	1324a.
274B	1324b.
275	1325.
276	1326.
277	1327.
278	1328.
279	1329.
280	1330.
Chapter 9	Part IX.
281	1351.
282	1352.
283	1353.
[§ 1 of 3/2/31	1353a] Overtime compensation.
[§ 2 of 3/2/31	1353b] Extra compensation.
[§ 1 of 3/4/21	1323c] Foreign country compensation.
[A. of 8/22/40	1353d] Disposition of Funds.
284	1354.
285	1355.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
286	1356.
287	1357.
288	1358.
289	1359.
290	1360.
291	1361.
292	1362.
293	1363.
[§ 401 of PL 99–603	1364] Triennial immigration reports.
[§ 501 of PL 99–603	1365] State incarceration assistance.
TITLE III	Subchapter III.
Chapter 1	Part I.
301	1401.
[A. of 3/16/56	1401a] Service parent before 1952.
302	1402.
303	1403.
304	1404.
305	1405.
306	1406.
307	1407.
308	1408.
309	1409.
Chapter 2	Part II.
310	1421.
311	1422.
312	1423.
313	1424.
314	1425.
315	1426.
316	1427.
317	1428.
318	1429.
319	1430.
320	1431.
321	1432.
322	1433.
324	1435.
325	1436.
326	1437.
327	1438.
328	1439.
329	1440.
[§ 3 of PL 90–633	1440e] Exemption from naturalization fees.
330	1441.
331	1442.
332	1443.
333	1444.
334	1445.
335	1446.
336	1447.
337	1448.
338	1449.
339	1450.
340	1451.
341	1452.
342	1453.
343	1454.
344	1455.
346	1457.
347	1458.
348	1459.

Provision in Immigration and Nationality Act	Provision in title 8, United States Code, chapter 12
Chapter 3	Part III.
349	1481.
351	1483.
356	1488.
357	1489.
Chapter 4	Part IV.
358	1501.
359	1502.
360	1503.
Title IV	Subchapter IV.
411	1521.
412	1522.
413	1523.
414	1524.
[§ 301 of Refugee Act of 1980.	1525] U.S. Coordinator for Refugee Affairs.

The following additional provisions are contained as permanent law provisions in title 8, United States Code, and are not in the Immigration and Nationality Act:

	Chapter 13.
[§ 4 of 2/14/03	1551] Service establishment.
[§ 7 of 3/3/91	1552] Commissioner.
[§ 201 of 6/20/56	1553] Assistant Commissioners.
[§ 1 of 3/2/95	1554] Special Immigration Inspection Officers.
[§ 6 of 7/28/50	1555] Immigration Service Expenses.
[§ 6 of 6/25/10	1557] Prev. of Transportation.

B. CROSS-REFERENCES IN LAW TO PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT [INA]

(Source: Office of the Legislative Counsel, U.S. House of Representatives; as of January 1, 1989, for the INA and related provisions, and as of March 1, 1987, or later for remainder)

Abbreviations:

A. of=	Act of
CFA/FSM-MI=	Compact of Free Association (with the Federated State of Micronesia and the Marshall Islands) contained in title II of Pub. L. 99-239.
CFA/Palau=	Compact of Free Association (with Palau) contained in title II of Pub. L. 99-658.
DOCJSAA-88=	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988 (as contained in section 101(a) of P.L. 100-202)
F.=	first section of
FORPAA-88=	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of P.L. 100-202)
FSA=	Food Stamp Act of 1977
HCDA=	Housing and Community Development Act of 1980
IRC=	Internal Revenue Code of 1986
IRCA=	Immigration Reform and Control Act of 1986 (Pub. L. 99-603)
ls=	Last sentence
MASAWPA=	Migrant and Seasonal Agricultural Worker Protection Act (Pub. L. 97-470)
MSSA=	Military Selective Service Act
PL=	Public Law
REAA=	Refugee Education Assistance Act of 1980 (Pub. L. 96-422)
Ref=	Refugee Act of 1980 (Pub. L. 96-212)
RRA=	Railroad Retirement Act of 1974
RUIA=	Railroad Unemployment Insurance Act
SSA=	Social Security Act
USC=	United States Code
*=	apparent incorrect reference
[2x], [3x]=	reference appears 2 or 3 times.

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
101	18 USC 831(c)(2).
101(a)	§4 of PL 89-732.
101(a)(15)	214(b), 221(a)(2);§6(f) of FSA [7 USC 2015(f)] §804(1) of A. of 1/27/84 [22 USC 1474(1)]; §635(f) of PL 87-195 [22 USC 2395(f)]; §9 of PL 87-293 [22 USC 2508;] 22 USC 3508(d); §214(a)(1) of HCDA [42 USC 1436a(a)(1)]; §3(a) of MSSA [50A USC 453(a)].

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
101(a)(15)(A)	221(b), 247(a), 247(b), 248(3), 263(b); §6(a)(1) of MSSA [50A USC 456(a)(1)]; §§137(b)(6), (8) of PL 100–204.
101(a)(15)(A)(i)	101(a)(15)(A)(iii), 102(1) [2x], 241(e); [§4 of A. of 11/2/66;]. §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(A)(ii)	101(a)(15)(A)(iii), 102(3); §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(A)(iii)	212(d)(2).
101(a)(15)(B)	217(a)(1), 221(g) 2d proviso; ¶¶1,2 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
101(a)(15)(C)	248(1).
101(a)(15)(D)	248(1), 252(a); §315(d) of PL 99–603; §315(d)(1) of IRCA.
101(a)(15)(D)(ii)	§2 of PL 99–505.
101(a)(15)(E)	247(a), 247(b); A. of 6/18/54 [8 USC 1184a]; §6(a)(1) of MSSA [50A USC 456(a)(1)]; §307(a) of PL 100–449; ¶4 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
101(a)(15)(F)	221(g) 2d proviso; §§871(c), 872(b)(3), 1441(b), 1441(b)(1), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(D)(i)(I) of IRC; §210(a)(19) of SSA [2x] [42 USC 410(a)(19)]; §1(h)(6)(ii) of RRA [2x] [45 USC 231(h)(6)(ii)]; §1(i) of RUIA [2x] [45 USC 351(i)].
101(a)(15)(G)	221(b), 247(a), 247(b), 248(3), 263(b); §6(a)(1) of MSSA [50A USC 456(a)(1)].
101(a)(15)(G)(i)	101(a)(15)(G)(iii), 101(a)(27)(I)(i), 102(2) [2x], 241(e); §13(a) of A. 9/11/57 [8 USC 1255b]
101(a)(15)(G)(ii)	101(a)(15)(G)(iii), 102(3); §13(a) of A. 9/11/57 [8 USC 1255b].
101(a)(15)(G)(iii)	102(3).
101(a)(15)(G)(iv)	101(a)(27)(I)(i)–(iii), 102(3).
101(a)(15)(G)(v)	212(d)(2).
101(a)(15)(H)	101(a)(27)(H)(iii), 212(e), 214(c), 245(c)(2); §3306(c)(1)(B) of IRC.
101(a)(15)(H)(i)	§4 of PL 100–658; schedule 1 to Annex 1502.1 of U.S.-Canada Free-Trade Agreement [2x].
101(a)(15)(H)(ii)	218(h)(1); §3121(b)(18) of IRC; §210(a)(18) of SSA [42 USC 410(a)(18)]; §§2(b)(1), 3 of PL 97–271.
101(a)(15)(H)(ii)(a)	210A(b)(1)(C), 214(c) [2x], 218(g)(1)(A), 218(i)(2); §§3(8)(B)(ii), 3(10)(B)(iii) of MASAWPA [29 USC 1802(8)(B)(ii), 1802(10)(B)(iii)]; §§301(d), 305 of IRCA.
101(a)(15)(J)	101(a)(27)(H)(iii), 212(e) [2x], 212(j)(1), 244(f)(2), 244(f)(3)(A), 245A(a)(2)(C), 248(2), 248(3) [2x], §§871(c), 872(b)(3), 1441(b), 1441(b)(1), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(C)(i), 7701(b)(5)(D)(i)(II) of IRC; §210(a)(19) of SSA [2x] [42 USC 410(a)(19)]; §1(h)(6)(ii) of RRA [2x] [45 USC 231(h)(6)(ii)]; §1(i) of RUIA [2x] [45 USC 351(i)]; §555 of PL 100–461.
101(a)(15)(K)	214(d), 245(d) [2x], 248(1).
101(a)(15)(L)	212(e), 214(c); ¶8 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
101(a)(15)(M)	§§871(c), 1441(g), 3121(b)(19) [2x], 3231(e)(1) [2x], 3306(c)(19) [2x], 7701(b)(5)(D)(i)(II) of IRC; §210(a)(19) of SSA [2x] [42 USC 410(a)(19)].
101(a)(15)(N)	101(a)(27)(I)(i)–(ii).
101(a)(20)	210(a)(5), 210(g), 210A(d)(4); §6(f) of FSA [7 USC 2015(f)]; 18 U.S.C. 3077(2)(B), 3142(d)(1)(B); §214(a)(1) of HCDA [42 USC 1436a(a)(1)]; 50 USC 424, 1801(i); §6(a)(1) of MSSA [50A USC 456(a)(1)]; §305 of IRCA.
101(a)(22)	18 USC 1203(c), 3077(2)(A); 46 USC 2101(3a).
101(a)(27)	201(a), 202(a), 202(c), 203(d).
101(a)(27)(A)	211(b); Priv. L. 98–53.
101(a)(27)(E)	212(d)(9), 212(d)(10); §3201(c) of PL 96–70.
101(a)(27)(F)	212(d)(9), 212(d)(10); §3201(c) of PL 96–70.
101(a)(27)(G)	212(d)(9), 212(d)(10); §3201(c) of PL 96–70.
101(a)(27)(H)	201(a), 202(a), 245(c)(2).
101(a)(27)(I)	245(c)(2); §2(o)(2) of PL 100–525.
101(a)(27)(I)(i)	101(a)(15)(N)(i).
101(a)(27)(I)(ii)	101(a)(15)(N)(ii).
101(a)(27)(I)(iii)	101(a)(15)(N)(ii), 101(a)(27)(I)(iv).

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101(a)(27)(I)(iv)	101(a)(15)(N)(ii).
101(a)(36)	§506(c) of PL 94-241; §§204(j)(1), 501(e) of IRCA.
101(a)(42)	207(c)(2), 207(c)(4); §702(c)(2) of DOCJSAA-88; §§901(b), 903(c)(2) of PL 100-204.
101(a)(42)(A)	208(a), 208(b), 209(b)(3).
101(a)(43)	242A(a); §7350(a)(1) of PL 100-690.
101(b)	§4 of PL 89-732.
101(b)(1)	101(b)(2).
101(b)(1)(A)	203(a)(8), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88.
101(b)(1)(B)	203(a)(8), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88.
101(b)(1)(C)	101(b)(2), 203(a)(8), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88.
101(b)(1)(D)	101(b)(2), 203(a)(8), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88.
101(b)(1)(E)	203(a)(8), 207(c)(2), 208(c); §584(b)(3) of FORPAA-88.
101(b)(1)(F)	101(b)(2), 204(d).
101(b)(5)	286(e)(1)(D).
106	210(e)(3)(A), 245A(f)(4)(A).
106(a)(5)(B)	106(a)(4).
title II	§401(d) of IRCA.
201	210(c)(1), 245A(d)(1); §19 of PL 97-116; §203(c) of IRCA.
201(a)	201(b), 203(a), 203(a)(1)-(6), 244(d); §2(c)(1) of PL 97-271; §314(a) of IRCA; §204(b)(3)(A) of Ref; §3(a) of PL 100-658.
201(b)	101(b)(1)(F), 201(a), 202(a), 202(c), 203(d) [2x], 204(a)(1), 204(b), 204(e), 204(g)(1), 216(g)(1)(A), 222(a), 244(d), 245(e)(2), 245(c)(4); §506(c) of PL 94-241; §2(c)(4) of PL 97-271; §555 of PL 100-461 (102 Stat. 2268-36).
202	210(c)(1), 245A(d)(1); §19 of PL 97-116; §2(c)(1) of PL 97-271; §§203(c), 314(a) of IRCA; §13(c) of A. of 9/11/57 [8 USC 1255b(c)]; §3(a) of PL 100-658.
202(a)	202(c), 244(d); §3(c) of PL 100-658.
202(a) proviso	202(b) [3x].
202(b)	202(e); §714 of PL 97-113; 22 USC 3303(b)(6).
202(c)	202(e).
202(c)(2)	§204(b)(3)(B) of Ref.
202(e)	245(b).
202(e)(1)	202(e)(2).
202(e)(1)-(3)	202(e)(4).
202(e)(1)-(4)	202(e)(5).
202(e)(1)-(6)	202(e)(7), 204(f).
202(e)(2)	§204(b)(3)(B) of Ref.
202(e)(7)	§§204(b)(3)(B), 204(c)(1) of Ref.
203	202(a), 212(a)(21).
203(a)	203(b) [2x], 203(e), 204(b) 204(e), 245(b); §204(c)(2) of Ref; §555 of PL 100-461 (102 Stat. 2268-36).
203(a)(1)	203(a)(2), 204(a), 204(g)(1).
203(a)(1)-(3)	203(a)(4).
203(a)(1)-(4)	203(a)(5).
203(a)(1)-(6)	203(a)(7), 203(c), 203(d) [2x].
203(a)(1)-(7)	202(a), 203(a)(8).
203(a)(2)	204(a)(1), 204(a)(2)(A), 216(g)(1)(C); §204(b)(3)(B) of Ref [2x]; §2(c)(4) of PL 97-271.
203(a)(3)	203(a)(7), 204(a), 204(b), 212(a)(14), 212(a)(32).
203(a)(4)	204(a)(1), 204(g)(1); §2(c)(4) of PL 97-271.
203(a)(5)	204(a)(1), 204(g)(1); §2(c)(4) of PL 97-271.
203(a)(6)	203(a)(7), 204(a)(1), 204(b), 212(a)(14), 212(a)(32).
203(a)(7)	212(a)(14), 212(a)(32); 3304(a)(14)(A) of IRC; [§1614(a)(1)(B) of SSA, 42 USC 1382c(a)(1)(B)]; §§314(a), 314(b) of IRCA; §3(b) of PL 100-658.
[203(a)(7) old]	§§203(h), 204(b)(3)(B), 204(c)(1), 204(c)(2), 204(c)(3) of Ref; §§402(a)(33), 415(f)(1), 1621(f)(2)(C) of SSA [42 USC 602(a)(33), 615(f)(1), 1382j(f)(2)(C)].;
203(a)(8)	216(g)(1).
[203(a)(8) old]	§19(1) of PL 97-116.
203(b)	203(a)(8).

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[203(g) [old]	§5 of PL 95-412; §204(c)(1) of Ref.
[203(h) [old]	§5 of PL 95-412; §204(c)(1) of Ref.
204	203(c), 203(d), 205.
204(a)	204(d), 204(h), 216(b)(1)(B), 216(d)(1)(A)(ii), 245A(a)(1)(C); §2(c)(4) of PL 97-271.
204(a)(2)(A)	204(a)(2)(B).
204(b)	203(e), 204(c), 204(d).
204(g)(1)	204(g)(2), 204(g)(3).
204(g)(2)	204(g)(1), 204(g)(4)(A).
204(g)(2)(A)	204(g)(1), 204(g)(3)(A).
204(g)(2)(C)(ii)	204(g)(3)(A).
204(g)(4)	204(g)(2)(B).
204(g)(4)(A)	204(g)(4)(B).
207	201(a), 209(a)(1), 211(c), 212(d)(5)(B), 274B(a)(3)(B)(i); §101(3)(A) of REAA [8 USC 1522 nt.]; §6(f) of FSA [7 USC 2015(f)]; 22 USC 4703(b); §214(a)(3) of HCDA [42 USC 1436a(a)(3)]; §203(h), 204(c)(2) of Ref; §584(c) of FORPAA-88; §901(b) of PL 100-204.
207(a)	207(b), 207(c)(1), 207(d)(2), 207(d)(3)(A), 209(b); §§204(b)(2), 204(d)(1) of Ref.
207(b)	207(a)(1), 207(a)(2), 207(c)(1), 207(d)(2), 207(d)(3)(B).
207(c)	§§402(a)(33), 415(f)(2) of SSA [42 USC 602(a)(33), 615(f)(2)]; §101(b) of REAA [8 USC 1522 nt.].
207(c)(1)	207(c)(2) [2x]; §1621(f)(2)(C) of SSA [42 U.S.C. 1382j(f)(2)(C)].
207(c)(2)	412(a)(10).
207(c)(3)	207(c)(1), 207(c)(2).
207(e)	101(a)(42)(B), 207(a)(1).
208	201(a), 274B(a)(3)(B)(i), §6(f) of FSA [7 USC 2015(f)]; 22 USC 4703(b); §§402(a)(33), 415(f)(4) of SSA [42 USC 602(a)(33), 615(f)(4)]; §214(a)(3) of HCDA [42 USC 1436a(a)(3)]; §203(h) of Ref; §901(b) of PL 100-204.
208(a)	208(b), 208(c); §204(d)(2) of Ref.
209	210(b)(2)(B), 245A(c)(2)(B).
209(a)(1)	209(a)(2).
209(b)	§204(b)(2) of Ref.
209(c)	209(a)(2), 209(b)(5).
210	210A(a)(6)(A)(i), 210A(b)(2)(A), 210A(g)(1); §402(f)(2) of SSA [42 USC 602(f)(2)]; §204(j)(4) of IRCA.
210(a)	210(b)(1)(A), 210(d)(1), 210(d)(2), 210(d)(3)(A), 210(f), 210A(b)(1)(A)(i).
210(a)(B)(1)(B)*	210(d)(3)(B).
210(a)(1)	210(a)(2), 210(a)(2)(A), 210(a)(2)(C), 210(a)(3), 210(a)(5), 210(b)(1)(B), 210(b)(2)(B)(i), 210(d)(1), 274A(i)(3)(C)(i).
210(a)(1)(A)	210(a)(2)(A), 210(a)(2)(B), 210(d)(3)(A), [210(d)(3)(B)].
210(a)(1)(B)(ii)	210(b)(3)(A), 210(b)(3)(B)(i), 210(b)(3)(B)(iii).
210(a)(1)(C)	210(c)(2).
210(a)(2)	274A(i)(3)(B)(ii).
210(a)(2)(A)	210(a)(2)(B), 210(a)(2)(C).
210(a)(2)(B)	210(a)(2)(C).
210(a)(2)(C)	210(a)(2)(A).
210(a)(5)	210(g).
210(b)(1)(A)	210(d)(3)(B).
210(b)(1)(A)(ii)	210(b)(4), 210(d)(3)(B).
210(b)(2)	210(b)(1)(A)(ii).
210(b)(3)	210A(d)(5)(C).
210(b)(3)(B)(i)	210(b)(3)(B)(ii).
210(b)(7)	210(b)(6)(A).
210(b)(7)(A)	210(b)(7)(B).
210(c)(2)	210(a)(1)(C).
210(c)(2)(B)(i)	210(c)(2)(B)(ii).
210(c)(2)(B)(ii)	210(c)(2)(B)(i).
210(d)	210(d)(3).
210(d)(2)	210(d)(3)(B).
210(f)	210(g); §§402(f)(1), 402(f)(2), 472(a) of SSA [42 USC 602(f)(1), 602(f)(2), 672(a)].

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210(h)	210A(g)(2), 274A(i)(3)(C)(ii); §304(j)(3) of IRCA.
210A	241(a)(20); §402(a)(2) of SSA [42 USC 602(a)(2)]; §§204(j)(4), 304(j)(4) of IRCA.
210A(a)	210A(c)(1).
210A(a)(2)	210A(a)(6)(A)–(C).
210A(a)(2)(A)	210A(a)(4).
210A(a)(2)(B)	210A(a)(5).
210A(a)(4)	210A(a)(2)(A), 210A(a)(3).
210A(a)(4)(A)	210(a)(5)(A).
210A(a)(5)	210A(a)(2)(B), 210A(a)(3), 210A(b)(3)(A)(ii).
210A(a)(5)(B)(ii)	210A(a)(5)(C).
210A(a)(6)	210A(a)(2), 210A(a)(7)(A)(iii), 210A(a)(8)(A)(iii).
210(a)(6)(A)(i)	210A(a)(6)(A)(ii)(I).
210A(a)(6)(A)(ii)	210(a)(6)(A)(i).
210A(a)(7)(A)	210A(a)(7)(B)–(C).
210A(a)(8)	210A(d)(5)(D).
210A(a)(8)(A)	210A(a)(8)(B)–(C).
210A(b)	§304(b)(1)(E) of IRCA.
210A(b)(1)	210A(c)(1).
210A(b)(1)(A)(i)	210A(b)(1)(B)(i).
210A(b)(1)(A)(ii)	210A(b)(1)(C).
210A(b)(1)(B)(ii)	210A(b)(1)(C).
210A(b)(1)(C)	210A(b)(1)(A)(ii), 210A(b)(1)(B)(ii).
210A(b)(2)	210A(b)(3)(B) [2x], 210A(f)(4)(A).
210A(b)(2)(A)	210A(a)(6)(A)(ii)(I), 210A(a)(6)(A)(ii)(II).
210A(b)(3)(A)	210A(b)(3)(C).
210A(b)(3)(A)(i)	210A(b)(1)(A)(ii), 210A(b)(1)(B)(ii).
210A(b)(3)(A)(ii)	210A(a)(6)(A)–(C).
210A(b)(3)(B)	210A(b)(3)(C).
210A(c)	210A(d)(1), 210A(d)(2), 210A(d)(4), 210A(f)(1)–(3), 210A(g)(1).
210A(c)(1)	210A(b)(1)(A)–(B), 210A(e).
210A(d)(2)(A)	210A(a)(8)(A), 210A(a)(8)(C).
210A(d)(2)(B)	210A(a)(8)(A), 210A(a)(8)(C).
210A(d)(5)(A)	210A(d)(5)(C)–(D), 241(a)(20).
210A(d)(5)(B)	210A(d)(5)(C)–(D).
210A(d)(7)	§§402(f)(1), 402(f)(2), 472(a) of SSA [42 USC 602(f)(1), 602(f)(2), 672(a)].
210A(e)	210A(c)(1).
210A(e)(2)(A)	210A(e)(2)(B).
210A(e)(2)(B)	210A(e)(2)(A).
210A(f)(1)	210A(f)(4)(B).
210A(f)(2)	210A(f)(4)(B).
210A(f)(3)	210A(f)(4)(C).
210A(f)(5)	210A(f)(2).
210A(g)(2)	210A(b)(1)(C).
211(a)	211(c), 212(a)(20).
211(b)	211(a), 212(c), 240(b).
211(c)	211(a).
212	221(g)(1), 221(g)(3), 235(a).
212(a)	210(c)(2)(B)(i), 210A(e)(2)(A), 212(d)(3) [2x], 212(d)(7), 217(b)(3)(A), 232, 245A(d)(2)(B)(i), 249, 272(d); §1012(b)(1)(D) of PL 98–164; §204(c)(3) of Ref.
212(a)(1)–(25)	212(c).
212(a)(1)–(5)	234 [2x], 236(d).
212(a)(1)	212(g).
212(a)(3)	212(g).
212(a)(6)	236(d) [2x]; §518 of P.L. 100–71; §518 of PL 100–71.
212(a)(7)	212(d)(9), 213, 221(g) 1st proviso, 272(b).
212(a)(9)	101(f)(3), 210(c)(2)(B)(ii)(I), 210A(e)(2)(B)(i), 212(h), 245A(d)(2)(B)(ii)(I), 277.
212(a)(10)	101(f)(3), 210(c)(2)(B)(ii)(I), 210A(e)(2)(B)(i), 212(h), 245A(d)(2)(B)(ii)(I), 277.
212(a)(11)	101(f)(3), 212(d)(1).
212(a)(12)	101(f)(3), 212(h), 241(a)(12).

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212(a)(14)	203(a)(7), 207(c)(3), 209(c), 210(c)(2)(A), 210A(e)(1), 212(k), 218(g)(3), 241(f)(1)(A)(ii), 245A(d)(2)(A); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §19(2) of PL 97-116; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §§202(a)(2), 314(c) of IRCA; §141(a) of CFA/FSM-MI; §141(a) of CFA/Palau; §584(a)(2) of FORPAA-88; §3(c) of PL 100-658.
212(a)(15)	207(c)(3), 209(c), 210(c)(2)(B)(ii)(II), 210(c)(2)(C), 210A(e)(2)(C), 212(d)(10), 213, 221(g) 1st proviso, 245A(d)(2)(B)(ii)(II), 245A(d)(2)(B)(ii), 245A(d)(2)(B)(iii); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA; §584(a)(2) of FORPAA-88.
212(a)(16)	§202(a)(2) of IRCA.
212(a)(17)	§202(a)(2) of IRCA.
212(a)(19)	210(b)(7)(B), 241(c); §202(a)(2) of IRCA.
212(a)(20)	207(c)(3), 209(c), 210(c)(2)(A), 210A(e)(1), 211(b), 212(d)(7), 212(k), 241(f)(1)(A)(ii), 245A(d)(2)(A); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA; §141(a) of CFA/FSM-MI; §141(a) of CFA/Palau; §584(a)(2) of FORPAA-88.
212(a)(21)	207(c)(3), 209(c), 210(c)(2)(A), 210A(e)(1), 212(d)(7), 212(k), 241(f)(1)(A)(ii), 245A(d)(2)(A); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA; §584(a)(2) of FORPAA-88.
212(a)(23)	101(f)(3), 207(c)(3), 209(c), 210(c)(2)(B)(ii)(III), 210A(e)(2)(B)(ii), 212(h), 245A(d)(2)(B)(ii)(III), 277; §204(c)(3) of Ref; §584(a)(2) of FORPAA-88.
212(a)(25)	207(c)(3), 209(c), 210(c)(2)(A), 210A(e)(1), 212(b) [2x], 212(d)(1), 245A(d)(2)(A); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §1012(b)(1)(D) of PL 98-164; §202(a)(2) of IRCA; §584(a)(2) of FORPAA-88.
212(a)(26)	212(d)(4), 212(d)(7), 212(d)(8); §141(a) of CFA/FSM-MI; §141(a) of CFA/Palau.
212(a)(26)(B)	212(l)(1), 217(a).
212(a)(27)	102(1)-(3), 207(c)(3), 209(c), 210(c)(2)(B)(ii)(IV), 210A(e)(2)(B)(iii), 212(d)(3) [2x], 212(d)(8), 235(c), 241(a)(7), 245A(d)(2)(B)(ii)(IV), 277; §204(c)(3) of Ref; §584(a)(2) of FORPAA-88.
212(a)(28)	210(c)(2)(B)(ii)(IV), 210A(e)(2)(B)(iii), 212(d)(2), 235(c), 245A(d)(2)(B)(ii)(IV), 277.
212(a)(28)(B)-(H)	212(a)(28)(I).
212(a)(28)(G)	212(a)(28)(H).
212(a)(28)(I)(ii)	212(a)(28)(I) ls.
212(a)(29)	102(3), 207(c)(3), 209(c), 210(c)(2)(B)(ii)(IV), 210A(e)(2)(B)(iii), 212(d)(3) [2x], 212(d)(8), 235(c), 241(a)(7), 245A(d)(2)(B)(ii)(IV), 277; §204(c)(3) of Ref; §584(a)(2) of FORPAA-88.
212(a)(29)(C)	241(a)(7).
212(a)(30)	212(c).
212(a)(31)	101(f)(3), 212(c).
212(a)(32)	207(c)(3), 209(c), 210(c)(2)(A), 210A(e)(1), 245A(d)(2)(A); §101(a)(2) of PL 95-145; §204(c)(3) of Ref; §2(a)(2) of PL 97-271; §202(a)(2) of IRCA; §584(a)(2) of FORPAA-88.
212(a)(33)	207(c)(3), 209(c), 210(c)(2)(B)(ii)(V), 210A(e)(2)(B)(iv), 212(d)(3) [2x], 245A(d)(2)(B)(ii)(V), 249; §204(c)(3) of Ref; §584(b)(2) of FORPAA-88; §901(c) of PL 100-204.
212(d)(3)	252(a).
212(d)(4)(C)	245(c)(3).
212(d)(5)	252(a), 254(a)(2), 254(a)(3); §101(3)(A) of REAA [8 USC 1522 nt.]; §6(f) of FSA [7 USC 2015(f)]; 3304(a)(18) of IRC; 28 USC 1821(e); §§402(a)(33), 415(f)(3), 1614(a)(1)(B), 1621(f)(2)(C) of SSA [42 USC 602(a)(33), 615(f)(3), 1382c(a)(1)(B), 1382j(f)(2)(C)]; §214(a)(4) of HCDA [42 USC 1436a(a)(4)]; §101(b)(1) of PL 95-145; §5 of PL 95-412; §204(c)(3) of Ref.
212(d)(5)(B)	212(d)(5)(A).

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
212(d)(9)	§3201(d)(2) of PL 96-70.
212(e)	244(f)(2), 244(f)(3)(B), 245A(a)(2)(C), 248(3).
212(e)(iii)	212(e) 2d proviso.
212(f)	§702(b) of DOCJSAA-88; §903(b) of PL 100-204.
212(h)	216(f).
212(i)	216(f).
212(j)	101(a)(15)(J).
212(j)(1)(A)	212(j)(2)(A).
212(j)(1)(B)(iii)(I)	212(j)(2)(A).
212(j)(1)(C)	212(j)(1)(D)(ii).
212(j)(1)(E)	212(j)(3).
212(j)(2)(A)	212(j)(2)(B) [2x], 212(j)(2)(C).
212(j)(2)(A)(ii)	212(j)(2)(B).
212(j)(2)(B)	212(j)(2)(A).
212(l)	214(a), 245(c)(4), 248(4); §14(c) of PL 99-396.
213	221(g) 1st proviso, 236(d).
214	218(h)(2).
214(a)	218(h)(2), 221(g) 2d proviso.
214(c)	218(h)(2); §3 of PL 97-271. §3306(c)(1)(B) of IRC; §§3(8)(B)(ii), 3(10)(B)(iii) of MASAWPA [29 USC 1802(8)(B)(ii), 1802(10)(B)(iii)]; §301(d) of IRCA; §3 of PL 97-271.
214(d)	216(b)(1)(B), 216(d)(1)(A)(ii), 216(g)(1)(B).
214(e)	¶6 of Annex 1502.1 of U.S.-Canada Free-Trade Agreement.
215	241(a)(17).
216	241(a)(9)(B), 245(d).
216(a)	216(b)(1), 216(c)(1), 216(c)(2)(A), 216(d)(1)(B)(i).
216(a)(1)	216(a)(2)(A).
216(b)(1)	216(b)(2) [2x].
216(b)(2)	216(b)(1).
216(c)(1)	216(a)(2)(A), 216(a)(2)(B) 216(c)(4), 216(c)(4)(B).
216(c)(1)(A)	216(c)(2)(A)(i), 216(c)(2)(B), 216(c)(3)(A)(i), 216(d)(1), 216(d)(2)(A), 216(d)(3).
216(c)(1)(B)	216(c)(2)(A)(ii), 216(c)(2)(B), 216(c)(3)(A)(ii), 216(d)(3).
216(c)(2)(A)	216(c)(2)(B)
216(c)(3)(C)	216(c)(3)(D).
216(c)(3)(D)	216(c)(3)(C).
216(c)(4)	241(g).
216(d)(1)	216(c)(1)(A), 216(c)(1)(B), 216(c)(3)(A), 216(c)(3)(D).
216(d)(2)	216(c)(1)(A).
216(d)(2)(A)	216(a)(2)(B), 216(d)(2)(B), 216(d)(2)(C).
216(d)(2)(B)	216(d)(2)(A), 216(d)(2)(C).
216(d)(3)	216(c)(1)(B).
216(g)(1)	216(a)(1), 216(g)(3).
216(g)(2)	216(a)(1).
217	214(a), 245(c)(4), 248(4); §405(a) of IRCA.
217(a)(1)(A)	217(d)(1)(A).
217(a)(4)(C)	217(d)(1).
217(b)(1)	217(d)(4), 217(e).
217(b)(2)	217(b)(1), 217(b)(3).
217(b)(3)	217(a)(3)(A), 217(b)(1).
217(b)(4)	217(a)(3)(B).
217(c)	217(a)(2)(B).
217(c)(2)	217(c)(4).
217(c)(3)	217(c)(4).
217(c)(4)	217(c)(2).
217(d)	217(a)(4)(C).
217(d)(1)	217(d)(2).
217(e)	217(a)(1).
218	214(c); §§301(d), 301(e), 301(f) of IRCA.
218(a)	218(b).
218(a)(1)	218(c)(3)(A), 218(e)(1).
218(a)(1)(A)	218(c)(2)(A).
218(b)(2)	218(d)(3)(A), 218(d)(3)(B)(i), 218(d)(3)(B)(ii).
218(b)(2)(A)	218(b)(2)(B).

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218(c)(3)(B)(i)	218(c)(3)(B)(ii). 218(c)(3)(B)(iii) [2x], 218(c)(3)(B)(iv), 218(c)(3)(B)(vi), 218(c)(3)(B)(vii)(I)–(II).
218(c)(3)(B)(iv)	218(c)(3)(B)(v).
218(c)(3)(B)(vii)(I)	218(c)(3)(B)(vii)(II).
218(i)(2)	218(a)(1).
221	224.
221(b)	261, 262(a)(2), 262(b)(2).
221(c)	§584(a)(3) of FORPAA–88.
221(e)	240(a).
222	221(a)(1).
223	282(a).
223(a)(1)	223(b)(1).
223(a)(2)	223(b)(1).
231	280.
231(a)	231(d), 231(e).
231(b)	231(d), 231(e).
234	236(d).
235	205, 209(a)(1), 236(a) [2x], 273(d).
235(b)	235(c).
235(c)	235(b), 236(b) [2x].
236	106(b), 205, 209(a)(1), 273(d); 18 USC 4113(c).
236(b)	236(c), 236(d).
236(d)	236(c).
237	209(a)(1), 280.
237(a)	212(d)(7).
237(a)(1)	237(a)(2).
237(b)	243(e).
237(e)	212(a)(30).
238	271(a).
238(b)	286(a).
238(c)	212(d)(4), 286(a).
239	231(a), 231(b), 280.
[chapter 5 of title II]	266(b), 266(c), 291; 50 USC 855(b).
241	242(b); 22 USC 618(c), 2508; §401(b) of IRCA.
241(a)	241(d) [2x].
241(a)(1)	§202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(2)	241(c); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(4)	241(b), 242(b), 242(e), 244(a)(2), 244(e); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(5)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(6)	241(e), 242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(6)(G)	241(a)(6)(H).
241(a)(7)	241(e), 242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(9)(B)	241(g).
241(a)(10)	§202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(11)	241(b), 241(f)(2), 242(b), 242(e)(1), 244(a)(2), 244(e); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(12)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(14)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(15)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(16)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(17)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(18)	242(b), 242(e), 244(a)(2), 244(e)(1); §202(n)(1)–(2) of SSA [42 USC 402(n)].
241(a)(19)	241(f)(1)(A), 241(f)(2), 242(b), 242(e), 243(h)(1), 244(a), 244(e)(1).
241(a)(20)	210A(d)(5)(A).
241(c)	§5(d) of PL 99–639.

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
241(f)(1)(A)	241(f)(1)(B).
241(f)(1)(A)(ii)	241(f)(1)(B).
242	214(d), 242A(a), 245A(a)(1)(B), 252(b), 18 USC 4113(b); 22 USC 618(c), 2508.
242(a)(2)	242(a)(1), 242A(b).
242(b)	106(a), 212(a)(17), 242(a)(1), 18 USC 4113(a); 28 USC 1821(e).
242(c)	106(a)(7), 242(d), 242(g).
242(d)	106(a)(6) [2x], 106(a)(7), 242(g).
242(e)	106(a)(6) [2x], 106(a)(7), 242(f) [2x], 242(g).
243	214(d), 280; 22 USC 618(c), 2508.
243(a)	243(b).
243(e)	243(f).
243(g)	§315(c) of PL 99-603; §315(c) of IRCA; §702(b) of DOCJSAA-88; §903(b) of PL 100-204.
243(h)	§6(f) of FSA [7 USC 2015(f)]; §214(a)(5) of HCDA [42 USC 1436a(a)(5)].
243(h)(1)	243(h)(2); §901(b) of PL 100-204.
243(h)(2)	§202(a)(3) of IRCA.
243(h)(2)(A)–(D)	316(g)(1).
244	246(a); 18 USC 4113(a); §314(c) of IRCA.
244(a)	244(c), 244(f).
244(a)(1)	244(b)(1).
244(a)(2)	244(a)(1), 244(b)(1), 244(e)(1).
244(e)	18 USC 4113(a).
244(e)(1)	244(e)(2).
244(e)(2)	244(e)(1).
245	210(b)(2)(B), 245A(c)(2)(B), 246(a).
245(a)	245(b), 245(c), 245(d) [2x], 245(e)(1).
245(c)	F. of PL 89-732.
245(e)(2)	204(h), 245(e)(1).
245A	210A(d)(6); §402(f)(2) of SSA [42 USC 602(f)(2)]; §§204(j)(4), 304(j)(2), 404(a) of IRCA; §901(b) of PL 100-204.
245A(a)	245A(b)(1), 245A(b)(2), 245A(b)(3), 245A(c)(1), 245A(c)(7)(A), 245A(e)(1), 245A(e)(2), 245A(h)(1) [2x]; §204(c)(1)(B) of IRCA; §902(b) of DOCJSAA-88; §902(b) of PL 100-204; §214(a)(6) of HCDA [42 USC 1436a(a)(6)].
245A(a)(1)	274B(a)(3)(B)(i).
245A(a)(1)(A)	245A(a)(1)(B), 245A(e)(1), 245A(i); §204(a)(2)(B) of IRCA.
245A(a)(1)(B)	245A(a)(1)(A).
245A(a)(3)(A)	245A(a)(3)(B).
245A(a)(4)(A)	245A(d)(2); §902(a)(5) of DOCJSAA-88; §902(a)(5) of PL 100-204.
245A(b)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(b)(1)	245A(b)(2)(C), 245A(b)(3)(A), 245A(c)(7)(A).
245A(b)(1)(B)(i)	245A(b)(1)(B)(ii).
245A(b)(1)(C)(i)	245A(d)(2).
245A(b)(1)(D)(i)	245A(b)(1)(D)(ii); §204(c)(3)(D) of IRCA.
245A(b)(1)(D)(i)(I)	245A(b)(1)(D)(iii).
245A(b)(2)(B)	245A(d)(2).
245A(b)(3)(A)	245A(b)(1)(B)(ii).
245A(c)(1)(B)	245A(c)(3).
245A(c)(2)	245A(c)(1).
245A(c)(6)	245A(c)(5); §902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(d)(2)	245A(a)(4)(A) 245(b)(1)(C)(i), 245A(b)(2)(B)(i); §902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(d)(2)(B)(i)	245A(d)(2)(B)(ii).
245A(d)(2)(B)(ii)	245A(d)(2)(B)(i).
245A(d)(2)(B)(ii)(II)	245A(d)(2)(B)(ii) ls.
245A(f)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(f)(1)	245A(f)(3)(A).
245A(g)	§902(b) of DOCJSAA-88; §902(b) of PL 100-204.
245A(g)(1)(A)	245A(g)(2).
245A(g)(2)(A)	245A(g)(2)(C).
245A(g)(2)(D)(i)	245A(g)(2)(D)(ii).

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
245A(h)	210A(d)(6); §§402(f)(1), 402(f)(2), 472(a) of SSA [42 U.S.C. 602(f)(1), 602(f)(2), 672(a)]; §204(c)(1)(A) of IRCA.
245A(h)(1)	210(f) [2x], 245A(h)(2), 245A(h)(3)(A)(i)–(ii), 245A(h)(3)(B)(i); §902(b) of DOCJSAA–88; §902(b) of PL 100–204.
245A(h)(1)(A)	245A(h)(1)(B); §204(a)(2)(A) of IRCA.
245A(h)(1)(A)(i)	210A(d)(6), 245A(h)(4).
245A(h)(1)(A)(ii)	245A(h)(1)(B).
245A(h)(1)(A)(iii)	210A(d)(6).
245A(h)(2)	245A(h)(1)(A), 245A(h)(1)(B), 245A(h)(3)(B)(ii); §204(a)(2)(A) of IRCA.
245A(h)(3)	210(f) [2x], 245A(h)(1)(A), 245A(h)(1)(B); §204(a)(2)(A) of IRCA.
245A(h)(3)(A)	245A(h)(3)(B)(i).
245A(h)(3)(B)	245A(h)(3)(A).
245A(h)(3)(B)(i)	245A(h)(3)(B)(ii).
245A(i)	§902(b) of DOCJSAA–88; §902(b) of PL 100–204.
246(a)	246(b).
247(a)	247(b).
247(b)	214(b); §6(a)(1) of MSSA [50A USC 456(a)(1)].
248	214(a), 221(g) 2d proviso, 238(c), 241(a)(9)(A).
248(2)	248(3).
249	246(a); §6(f) of FSA [7 USC 2015(f)]; §214(a)(2) of HCDA[42 USC 1436a(a)(2)]; §203(c) of IRCA.
249(a)*	333(b)(1).
251	280.
251(a)	251(d).
251(b)	251(d).
251(c)	251(d).
252	243(c), 254(a)(2), 254(a)(3).
252(a)	252(c), 253.
252(a)(1)	252(b).
252(b)	252(a).
253	252(a), 254(a)(2), 254(a)(3), 280.
254	280.
254(a)	271(a).
255	253(a), 280.
256	280; [22 USC 450].
261	263(a), 264(a).
262	263(a), 263(b), 264(a).
262(a)	262(c).
262(b)	262(c).
264(d)	264(e).
265	241(a)(5), 266(b) [2x].
266(c)	241(a)(5).
271	280, 286(h)(1)(B).
271(a)	271(c)(1), 271(c)(2)(A), 271(c)(2)(B).
271(c)(1)	271(c)(2)(A), 271(c)(2)(B) [2x].
271(c)(2)(A)	271(c)(2)(B).
272	280.
272(a)	272(b).
273	280, 286(h)(1)(B).
273(b)	221(i).
273(d)	235(b).
274	10 USC 374(a)(2).
274(a)	274(b)(1), 274(b)(2).
274A	218(h)(1), 274B(k)(1), 274B(k)(2)(A)(i); 10 USC 374(a)(2); 46 USC 8704; §§101(b)(2), 101(e), 304(j)(1), 402(a) of IRCA.
274A(a)	274A(e)(1)(A), 274A(e)(1)(C), 274A(c)(1)(D), 274A(e)(3)(A), 274A(i)(2).
274A(a)(1)	274A(a)(2); §§103(a)(6), 501(b) of MASAWPA [29 USC 1813(a)(6), 1851(b)]; §101(a)(3)(A) of IRCA.
274A(a)(1)(A)	274A(a)(3), 274A(a)(4), 274A(e)(4), 274A(f)(1), 274A(f)(2), 274A(i)(3)(B)(iii).
274A(a)(1)(B)	274A(a)(5), 274A(b), 274A(e)(5).

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
274A(a)(2)	274A(e)(4), 274A(f)(1), 274A(f)(2); §§103(a)(6), 501(b) of MASAWPA [29 USC 1813(a)(6), 1851(b)]; §101(a)(3)(B) of IRCA.
274A(a)(3)	274A(a)(5), 274A(b).
274A(b)	274A(a)(1)(B), 274A(a)(3), 274A(a)(5) [2x], 274A(d)(1)(A), 274A(d)(1)(B) [2x], 274A(d)(4)(A), 274A(e)(4)(B)(i), 274B(g)(2)(B)(i); §402(a)(1) of IRCA; 18 USC 1546(b).
274A(b)(1)	274A(b)(2), 274A(b)(3).
274A(b)(2)	274A(b)(3).
274A(b)(1)(B)	274A(b)(1)(A)(i).
274A(b)(1)(C)	274A(b)(1)(A)(ii).
274A(b)(1)(C)(i)	274A(d)(3)(D)(iii).
274A(b)(1)(D)	274A(b)(1)(A)(ii).
274A(b)(1)(D)(i)	274A(b)(1)(D)(ii).
274A(b)(3)	274A(a)(5).
274A(b)(5)	274B(g)(2)(B)(ii).
274A(d)	274A(e)(4)(B)(i); §402(a)(2) of IRCA.
274A(d)(1)	274A(d)(2), 274A(d)(3)(A).
274A(d)(2)	274A(d)(1)(B), 274A(d)(4)(A).
274A(d)(3)	274A(d)(1)(B).
274A(d)(3)(A)	274A(d)(3)(B).
274A(d)(3)(D)	274A(d)(3)(A), 274A(d)(3)(C)(i).
274A(d)(3)(D)(i)	274A(d)(3)(A)(iii).
274A(d)(3)(D)(ii)	274A(d)(3)(A)(iii).
274A(d)(3)(D)(iii)	274A(d)(3)(A)(ii), 274A(d)(3)(E).
274A(d)(4)	274A(d)(1)(B); §402(a)(2) of IRCA.
274A(e)	274A(g)(2).
274A(e)(4)	274A(e)(3)(A), 274A(e)(3)(C).
274A(e)(5)	274A(e)(3)(A), 274A(e)(3)(C).
274A(e)(6)	274A(e)(3)(A), 274A(e)(3)(C).
274A(g)	218(i)(1).
274A(g)(1)	274A(e)(1)(A), 274A(e)(1)(C), 274A(e)(1)(D), 274A(e)(3)(A), 274A(e)(6), 274A(g)(2).
274A(g)(2)	274A(g)(1).
274A(h)(3)	274A(a)(1)(A), 274A(a)(4), 274B(a)(1).
274A(i)	§5(f)(3) of PL 100–239.
274A(i)(2)	274A(i)(3)(B)(iii).
274A(i)(3)(B)	274A(i)(3)(A).
274A(i)(3)(B)(i)	274A(i)(3)(B)(ii)–(iii).
274A(i)(3)(B)(ii)	274A(i)(3)(B)(i).
274A(i)(3)(C)(i)	274A(i)(3)(A).
274A(j)	274A(l)(1), 274B(k)(2).
274A(j)(1)	274A(k)(1).
274A(k)	274A(j)(1).
274A(k)(2)	274A(k)(3).
274A(l)	274A(m), 274A(n)(1), 274A(n)(2)(A), 274A(n)(3)(A), 274B(k)(1)–(2).
274A(l)(1)(B)	274A(l)(2).
274A(m)	274B(k)(2).
274A(n)	274A(l)(2), 274B(k)(2).
274A(n)(1)	274A(n)(3)(A).
274A(n)(3)	274A(n)(2).
274A(n)(3)(A)	274A(n)(3)(B).
274A(n)(4)	274A(n)(2).
274B	10 USC 374(a)(2).
274B(a)(1)	274B(a)(2), 274B(a)(3).
274B(a)(1)(A)	274B(b)(2).
274B(a)(3)	274B(a)(1)(B).
274B(b)(2)	274B(b)(1).
274B(c)	274B(b)(1).
274B(d)(3)	274B(d)(1), 274B(d)(2).
274B(e)(1)	274B(d)(3).
274B(g)(2)(B)(i)	274B(g)(2)(B)(ii).
274B(g)(2)(B)(iv)(II)	274B(g)(2)(B)(iv)(I).
274B(g)(2)(B)(iii)	274B(g)(2)(C).

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274B(i)	274B(g)(1), 274B(j)(4).
274B(i)(1)	274B(j)(1), 274B(j)(3).
274B(j)(1)	274B(c)(2).
274B(k)(2)(B)	274B(k)(2).
275	279, 10 USC 374(a)(2).
276	279, 10 USC 374(a)(2).
276(a)	276(b).
276(b)	276(a).
277	10 USC 374(a)(2).
278	241(a)(18), 10 USC 374(a)(2).
281	286(c).
[§1353a of title 8, USC...	5 USC 5549(2)].
[§1353b of title 8, USC...	5 USC 5549(2)].
286(a)	286(c).
286(b)	286(c).
286(d)	286(e)(1), 286(e)(2), 286(f)(1)(A), 286(f)(1)(B), 286(f)(2)(B), 286(f)(3), 286(g), 286(h)(1)(A), 286(l)(2).
286(f)(1)	286(f)(3).
286(f)(2)	286(f)(3).
286(h)(2)(A)	286(h)(2)(B) [4x].
286(m)	286(p), 345(g).
286(n)	286(p), 345(g).
286(o)	286(p), 345(g).
286(p)	345(g).
287(b)	236(a).
287(a)(3)	286(e).
292	242A(b).
title III	210A(d)(5)(B), 216(e), 245A(b)(1)(D)(iii), 405(b); §3 of A. of 10/24/68.
301	308; §506(b) of PL 94-241.
301(c)	309(a), 341(a).
301(d)	309(a), 341(a).
301(e)	309(a), 341(a).
301(g)	308(4), 309(a), 309(b), 341(a); A. of 3/16/56 [8 USC 1401a].
301(b)*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
303	341(a).
308	§506(b) of PL 94-241.
308(2)	309(a).
309(a)	309(c); §23(e)(3)(A) of PL 100-525.
310	335(b) [2x].
310(a)	101(a)(24), 101(a)(36), 327(a), 340(a), 344(c); §506(c) of PL 94-241.
312	245A(b)(1)(D)(i)(I), 245A(b)(1)(D)(iii).
313	316(g)(1), 322(a), 324(c)(1), 340(c).
313(a)	313(d).
313(a)(5)	313(a)(6).
313(c)	313(d).
314	322(a).
315	322(a).
316(a)	316(c), 316(e), 317, 327(a), 328(d), 328(e), 330.
316(a)(1)	319(a).
316(b)	316(c) [2x].
317(a)	324(a) [2x].
318	322(a), 328(b)(2), 329(b)(1), 330(b).
319(b)(1)(A)–(C)	322(c)(2)(B).
319(b)(1)(B)	322(c).
320	101(c)(1).
320(a)	320(b).
321	101(c)(1).
321(a)	321(b).
321(a)(1)	321(a)(5).
321(a)(2)	321(a)(5).
321(a)(3)	321(a)(5).
322	101(c)(1), 337(a).
322(a)	322(b).

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
323*	101(c)(1).
324(a)	101(a)(27)(B), 324(b), 338.
327	101(a)(27)(B).
327(a)	327(b), 327(b)(1).
327(b)	327(a).
328	318.
328(a)	328(b), 328(c).
329	318; §4 of A. 6/30/50 [8 USC 1440 nt]; §3 of A. 10/24/68.
329(a)	329(b); §4 of A. 6/30/50 [8 USC 1440 nt].
329(c)	340(e).
330(A)	330.
330(B)	330.
331	329(b)(1).
332(b)	346.
334	312(1); 20 USC 955b(b)(3)(B); 42 USC 1881(c)(2).
334(a)	334(d).
334(d)	334(e).
335(b)	336(b) [2x].
336(a)	334(e), 335(a), 336(b).
336(b)	336(a).
336(d)	18 USC 1429.
337	324(c)(1), 327(a).
337(a)	337(b), 337(c).
337(a)(1)–(5)	337(a).
337(a)(1)–(4)	337(a) [2x].
337(a)(5)(B)	337(a).
337(a)(5)(C)	337(a) [2x].
337(c)	334(e).
339(a)	348(a).
339(b)	348(a).
339(c)	348(a).
339(d)	348(a).
340	246(b), 329(c).
340(a)	340(b), 340(e).
340(c)	340(e).
340(d)	340(e).
341(b)	§16(c) of PL 99–396.
341(c)(2)	341(c)(1) [2x].
344(c)	344(e).
344(d)	344(c), 344(e).
[Chapter 3 of title III]	358.
349(a)(2)	§144(a) of CFA/FSM–MI; §144(a) of CFA/Palau.
349(a)(3)	351(b).
349(a)(4)	§144(a) of CFA/FSM–MI; §144(a) of CFA/Palau.
349(a)(5)	351(b).
349(a)(6)	351(a).
349(a)(7)	351(a).
350*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
355*	§877(d), 2107(d), 2501(a)(3)(A) of IRC.
360(a)	106(a)(5), 106(a)(6).
360(b)	360(c).
401(k)	407.
405	309(b).
405(a)	310(e).
405(b)	313(a), 315(a), 318, 331(d).
chapter 2 of title IV	404(a); §204(e) of Ref.; §501(a)(1) of REAA [8 USC 1522 nt.]; §584(c) of FORPAA–88.
412(a)(1)(B)(ii)	412(c)(1)(C).
412(a)(6)(A)	§313(d) of Ref.
412(a)(7)	413(b)(3).
412(a)(8)	413(b)(8).
412(b)	412(a)(7), 412(e)(2)(C)(i), 412(e)(6); §§5(e)(1)(A), 5(f)(2)(A) of PL 99–605.

Section in INA *referred to*	Section (in INA unless otherwise specified) *referring to* provision on left
412(b)(1)	412(a)(2)(A), 412(a)(2)(D), 412(a)(4)(B), 412(b)(6), 412(b)(7), 412(b)(7)(A), 412(b)(7)(E) [2x], 412(b)(7)(E)(v), 412(b)(8) [2x], 412(e)(8).
412(b)(1)(A)	412(b)(1)(B).
412(b)(1)(B)	412(b)(1)(A)(ii).
412(b)(4)(B)	412(b)(4)(D), 412(b)(7)(C).
412(b)(5)	412(a)(4)(B)(i), 414(a)(3).
412(b)(7)	412(b)(8)(F); §5(d)(1) of PL 99-605.
412(b)(7)(B)(i)	412(b)(7)(E)(iv); §5(d)(1) of PL 99-605.
412(b)(7)(C)	412(b)(7)(E)(iv); §5(d)(1) of PL 99-605.
412(b)(7)(D)	§§5(d)(1), 5(d)(2), 5(f)(1) of PL 99-605.
412(b)(7)(E)	412(b)(7).
412(c)	412(e)(2)(A)(ii); §§5(e)(1)(D), 7(b) of PL 99-605.
412(c)(1)	412(a)(4)(B)(ii), 414(a)(2); §313(b) of Ref.
412(c)(1)(A)	412(c)(1)(B).
412(c)(1)(A)(i)	412(e)(2)(A)(i).
412(c)(2)	412(a)(4)(B)(iii).
412(d)(2)	412(a)(4)(B)(iv).
412(d)(2)(A)	412(d)(2)(B)(i); §313(b) of Ref.
412(d)(2)(B)	412(d)(2)(A).
412(d)(2)(B)(ii)	412(d)(2)(B)(iii).
412(e)	412(a)(3), 412(b)(7)(ii).
412(e)(1)	412(e)(5); §313(c) of Ref.; §313(b) & (c) of PL 96-212.
412(e)(2)	412(a)(1)(A)(iii).
412(e)(2)(A)(ii)	412(e)(2)(C)(iii).
412(e)(5)	413(b)(6).
412(f)	414(a)(4).
412(f)(1)	412(f)(3), 412(f)(5).
412(f)(2)	412(f)(3), 412(f)(5).
413(a)(1)	§301(c)(2) of Ref.
414	§501(a)(1) of REAA [8 USC 1522 nt].
414(a)(1)	412(e)(7)(D); §401(a) of Ref.
414(a)(2)	412(e)(7)(D); §401(a) of Ref.; §501(a)(1) of REAA [8 USC 1522 nt.].
414(a)(2)–(4)	414(a)(1).
414(b)	412(b)(3).

C. List of Recent Legislation (1979–1988) Amending the Immigration and Nationality Act or Otherwise Affecting Aliens

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LEGISLATION AMENDING THE IMMIGRATION AND NATIONALITY ACT OR OTHERWISE AFFECTING ALIENS, 1979–1988

The following list of legislation amending the Immigration and Nationality Act (INA) or otherwise affecting aliens is organized by the Congress in which the legislation was enacted. The period 1979–1986 covers the 96th through the 100th Congresses. Within each Congress, the legislation is generally grouped in three principal categories: legislation amending the INA, legislation affecting the INA and Immigration and Naturalization Service (INS) operations, and legislation regulating alien participation in Federal assistance programs and other Federal activities. The legislation is listed in order of enactment within each category.

I. *96th CONGRESS, 1979–1980*

A. *Legislation Amending the INA*

1. *P.L. 96–70*, the Panama Canal Act of 1979 (September 27, 1979; 93 Stat. 452), amended sections 101(a)(27) and 212 of the INA to allow for the admission of a limited number of aliens from the Panama Canal Zone (93 Stat. 496).

2. *P.L. 96–212*, the Refugee Act of 1980 (March 17, 1980; 94 Stat. 102), amended the INA to provide for the admission and resettlement of refugees.

3. *P.L. 96–538*, the Health Programs Extension Act of 1980 (December 17, 1980; 94 Stat. 3183), amended section 212(j)(2)(A) of the INA to extend until December 31, 1981 the period during which certain entry requirements for nonimmigrant foreign medical graduates could be waived (94 Stat. 3192).

B. *Legislation Affecting the INA, INS Operations, or Refugees*

1. *P.L. 96–8*, the Taiwan Relations Act (April 10, 1979; 93 Stat. 14), provided that, "for purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act" (93 Stat. 16), meaning that it may be entitled to the independent country limit of 20,000 immigrant visas annually, separate from China. This provision was interpreted as requiring affirmative action by the State Department, and was subsequently enacted in a different form in P.L. 97–113.

2. *P.L. 96–60*, the Department of State Authorization Act, Fiscal Years 1980 and 1981 (August 15, 1979; 93 Stat. 395), included a modification of the 1977 "McGovern amendment," relating to the exclusion of aliens under section 212(a)(28) of the INA on the grounds of affiliation with proscribed organizations (93 Stat. 397).

3. *P.L. 96–68*, the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (September 24, 1979; 93 Stat. 416), appropriated $318,465,000 for INS for FY 1980 (93 Stat. 420).

4. *P.L. 96–110* (November 13, 1979; 93 Stat. 843) amended the Indochina Migration and Refugee Assistance Act of 1975 to extend the authority for assistance to Indochinese refugees through FY 1981, retroactive to the beginning of FY 1980. The 1975 Act was repealed by section 312(c) of P.L. 96–212, the Refugee Act of 1980.

5. *P.L. 96–132*, the Department of Justice Appropriation Authorization Act, Fiscal Year 1980 (November 30, 1979; 93 Stat. 1040), required an independent comprehensive management analysis of INS (93 Stat. 1047); and authorized increased appropriations for the Select Commission on Immigration and Refugee Policy and extended its reporting date from September 30, 1980 to March 1, 1981 (93 Stat. 1051).

6. *P.L. 96–422*, the Refugee Education Assistance Act of 1980 (October 10, 1980; 94 Stat. 1799), contained in title V the legislative authority for appropriations for reset-

tlement assistance for Cuban and Haitian entrants. The remaining titles authorized education-related assistance for entrants and refugees.

7. *P.L. 96-536*, the Further Continuing Appropriations Resolution, 1981 (December 16, 1980; 94 Stat. 3166), appropriated $351,000,000 for INS for FY 1981 (94 Stat. 3169). (P.L. 96-536 was initially in effect through June 5, 1981, and was extended through the end of FY 1981 by P.L. 97-12 (June 5, 1981; 95 Stat. 14, 95)).

C. *Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities*

1. *P.L. 96-68*, the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1980 (September 24, 1979; 93 Stat. 416), prohibited the use of Legal Service Corporation funds for undocumented aliens during FY 1980 (93 Stat. 433).

2. *P.L. 96-74*, the Treasury, Postal Service, and General Government Appropriations Act, 1980 (September 29, 1980; 93 Stat. 559), contained a Government-wide ban against the employment during FY 1980 of noncitizens of the United States with specified exceptions (93 Stat. 574).

3. *P.L. 96-84* (October 10, 1979; 93 Stat. 653) amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1982 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (93 Stat. 654).

4. *P.L. 96-123*, the Further Continuing Appropriations Resolution, 1980 (November 20, 1979; 93 Stat. 923), prohibited the use of Department of Labor funds for undocumented aliens during FY 1980 (93 Stat. 925).

5. *P.L. 96-249*, the Food Stamp Act Amendments of 1980 (May 26, 1980; 94 Stat. 357), included amendments relating to the resources of ineligible aliens (94 Stat. 361) and requiring the reporting of illegal aliens (94 Stat. 362).

6. *P.L. 96-265*, the Social Security Disability Amendments of 1980 (June 9, 1980; 94 Stat. 441), included amendments to title XVI of the Social Security Act providing that permanent resident aliens who apply for Supplemental Security Income (SSI) for the Aged, Blind and Disabled benefits will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (94 Stat. 471).

7. *P.L. 96-399*, the Housing and Community Develoment Act of 1980 (October 8, 1980; 94 Stat. 1614), prohibited financial assistance to nonimmigrant students (94 Stat. 1637).

8. *P.L. 96-438*, the Consolidated Farm and Rural Development Act Amendments (October 13, 1980; 94 Stat. 1871), permitted permanent resident aliens to be eligible for loans (94 Stat. 1872).

9. *P.L. 96-536*, the Further Continuing Appropriations Resolution, 1981 (December 16, 1980; 94 Stat. 3166), continued in effect for FY 1981 the prohibitions against the use of Legal Services Corporation and Labor Department funds for undocumented aliens, and the Government-wide ban against employment of non-citizens with specified exceptions (94 Stat. 3169; 94 Stat. 3166). (P.L. 96-536 was initially in effect through June 5, 1981, and was extended through the end of FY 1981 by P.L. 97-12 (June 5, 1981; 95 Stat. 14, 95)).

II. *97th CONGRESS, 1981-1982*

A. *Legislation Amending the INA*

1. *P.L. 97-116*, the Immigration and Nationality Act Amendments of 1981 (December 29, 1981; 95 Stat. 1611), popularly referred to as the INS Efficiency Act, consisted of a series of generally technical and noncontroversial amendments to the INA.

2. *P.L. 97-359* (October 22, 1982; 96 Stat. 1716) amended the INA by the addition of a new section 204(g) providing preferential treatment in the admission of certain Amerasian children.

3. *P.L. 97-363*, the Refugee Assistance Amendments of 1982 (October 25, 1982; 96 Stat. 1734), authorized appropriations for refugee assistance activities under title IV of the INA for FY 1983, with some modifications.

B. *Legislation Affecting the INA, INS Operations, or Refugees*

1. *P.L. 97-35*, the Omnibus Budget Reconciliation Act of 1981 (August 13, 1981; 95 Stat. 357) included the "Consolidated Refugee Education Assistance Act" (95 Stat. 458) which, among other things, extensively amended titles I–IV of P.L. 96-422, the Refugee Education Assistance Act of 1980.

2. *P.L. 97-86*, the Department of Defense Authorization Act, 1982 (December 1, 1981; 95 Stat. 1099), amended the U.S. Code (10 U.S.C. 374(a)(2)) to authorize mili-

tary cooperation with civilian law enforcement officials, and specifically with the Attorney General regarding sections 274–278 of the INA (95 Stat. 1115).

3. *P.L. 97–92*, the Further Continuing Appropriations Resolution, 1982 (December 15, 1981; 95 Stat. 1183) extended through September 30, 1982 by P.L. 97–161 (March 31, 1982; 96 Stat. 22), appropriated $428,557,000 for INS for FY 1982 (95 Stat. 1191). The Attorney General was also instructed to limit to 525 the number of aliens detained at Krome North in Florida (95 Stat. 1198).

4. *P.L. 97–113*, the International Security and Development Cooperation Act of 1981 (December 29, 1981; 95 Stat. 1519), required that Taiwan be considered as a separate foreign state for the purpose of the 20,000 per-country limit under the INA (95 Stat. 1549); required cooperation in halting illegal emigration as a condition for assistance to Haiti (95 Stat. 1551); and expressed the sense of the Congress that El Salvadorans should be considered for extended voluntary departure on a case-by-case basis (95 Stat. 1557).

5. *P.L. 97–241*, the Department of State Authorization Act, FY 1982 and 1983 (August 24, 1982; 96 Stat. 273), required the President to report on the total costs of assistance to refugees and Cuban and Haitian entrants (96 Stat. 297).

6. *P.L. 97–271*, the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (September 30, 1982; 96 Stat. 1157), authorized the granting of permanent resident status to certain "H–2" nonimmigrant aliens and their families residing in the U.S. Virgin Islands.

7. *P.L. 97–300*, the Job Training Partnership Act (October 13, 1982; 96 Stat. 1322), amended the Wagner–Peyser Act of 1933 to require payment for services of the Labor Department's U.S. Employment Service not authorized by the Act (96 Stat. 1395). INA–authorized alien certification was cited as such an activity in the Senate report.

8. *P.L. 97–377*, the Further Continuing Appropriations Resolution, 1983 (December 21, 1982; 96 Stat. 1830), appropriated $484,431,000 for INS for FY 1983 (96 Stat. 1873).

9. *H. Res. 304*, expressing the sense of the House that the President should halt deportation proceedings involving Poles until the political situation in Poland stabilized, passed the House on December 15, 1981.

C. *Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities*

1. *P.L. 97–35*, the Omnibus Budget Reconciliation Act of 1981 (August 13, 1981; 95 Stat. 357), included amendments to the Housing and Community Development Act of 1980 prohibiting financial assistance to nonimmigrants or undocumented aliens (95 Stat. 408); and included legislative eligibility requirements for alien participation in the Aid to Families with Dependent Children (AFDC) program authorized by title IV–A of the Social Security Act, and provided that immigrants who apply for AFDC benefits will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (95 Stat. 857).

2. *P.L. 97–92*, the Further Continuing Appropriations Resolution, 1982 (December 15, 1981; 95 Stat. 1183) extended by P.L. 97–161 (March 31, 1982; 96 Stat. 22), continued in effect during FY 1982 the prohibition against the use of Legal Services Corporation and Labor Department funds for undocumented aliens, and the Government–wide ban against the employment of noncitizens with specified exceptions (95 Stat. 1190; 95 Stat. 1183).

3. *P.L. 97–98*, the Agriculture and Food Act of 1981 (December 22, 1981; 95 Stat. 1213), amended the Food Stamp Act to provide that immigrants who apply for food stamps will be deemed to have a portion of the resources of their immigration sponsors available for their support for 3 years after their entry (95 Stat. 1283).

4. *P.L. 97–248*, the Tax Equity and Fiscal Responsibility Act of 1982 (September 3, 1982; 96 Stat. 324), included an amendment to section 3306(c)(1) of the Internal Revenue Code extending until January 1, 1984 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (96 Stat. 559).

5. *P.L. 97–276*, the Continuing Appropriations Resolution, 1983 (October 2, 1982; 96 Stat. 1186), continued in effect through December 17, 1982 the restriction against the use of Labor Department funds for undocumented aliens (96 Stat. 1187). The restriction was not extended beyond this date.

6. *P.L. 97–377*, the Further Continuing Appropriations Resolution, 1983 (December 21, 1982; 96 Stat. 1830), prohibited the use of Legal Services Corporation funds during FY 1983 for most aliens not admitted for permanent residence (96 Stat. 1874), and continued in effect the Government–wide ban against the employment of noncitizens with specified exceptions (96 Stat. 1830).

E. *Other Related Legislation*

1. *P.L. 97-123,* (December 29, 1981; 95 Stat. 1659) amended section 208(g) of the Social Security Act to prohibit altering or counterfeiting of social security cards or traffic in such cards, and to increase the penalties for misuse of social security numbers to not more than a $5,000 fine and/or 5 years imprisonment (95 Stat. 1663).

2. *P.L. 97-241,* the Department of State Authorization Act, FY 1982 and 1983 (August 24, 1982; 96 Stat. 273), included provisions providing for U.S. passport fees and increasing passport validity to up to 10 years, and relating to citizenship documentation (96 Stat. 279).

3. *P.L. 97-398,* the False Identification Crime Control Act of 1982 (December 31, 1982; 96 Stat. 2009), included provisions prohibiting the production, transfer, or possession of counterfeit or stolen identification documents.

4. *P.L. 97-470,* the Migrant and Seasonal Agricultural Worker Protection Act (January 14, 1983; 96 Stat. 2583), which superseded and repealed the Farm Labor Contractor Registration Act (FLCRA), included a provision prohibiting farm labor contractors from using the services of aliens unauthorized to work in the United States with penalties for violation similar to those in FLCRA (96 Stat. 2589; 96 Stat. 2596).

III. *98th CONGRESS, 1983-1984*

A. *Legislation Amending the INA*

1. *P.L. 98-164,* the Department of State Authorization Act, FY 1984 and 1985 (November 22, 1983; 97 Stat. 1017), deleted section 412(b)(1)(B) of the INA, a reporting requirement relating to refugees which had met (97 Stat. 1061).

2. *P.L. 98-454* (October 5, 1984; 98 Stat. 1732) amended sections 212 and 214 of the INA, authorizing a nonimmigrant visa waiver for aliens entering Guam as visitors for up to 15 days, provided Guam had an adequate arrival and departure control system (98 Stat. 1737). The provision was amended by P.L. 99-396.

3. *P.L. 98-473,* the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), included crime-related technical amendments to sections 212(a)(9) and 242(h) of the INA (98 Stat. 2028); and amended section 412(e) of the INA to require the implementation of alternative resettlement assistance projects to encourage refugee self-sufficiency (98 Stat. 1877).

4. *Private Law 98-47* (October 30, 1984) amended section 101(a)(9) of the INA to repeal the visa issuance authority of Governors of the Canal Zone and other U.S. possessions.

B. *Legislation Affecting the INA and INS Operations*

1. *P.L. 98-151,* the Continuing Appropriations Resolution, 1984 (November 14, 1983; 97 Stat. 964), authorized and appropriated funds for refugee and Cuban/Haitian entrant assistance (97 Stat. 964); and required cooperation in halting illegal emigration as a condition for assistance to Haiti (97 Stat. 971).

2. *P.L. 98-164,* the Department of State Authorization Act, FY 1984 and 1985 (November 22, 1983; 97 Stat. 1017), expressed the sense of the Congress that certain Salvadorans should be granted extended voluntary departure (97 Stat. 1062).

3. *P.L. 98-166,* the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Act, 1984 (November 28, 1983; 97 Stat. 1071), appropriated $501,257,000 for INS (97 Stat. 1083).

4. *P.L. 98-411,* the Departments of State, Justice and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1985 (August 30, 1984), appropriated $576,417,000 for INS (98 Stat. 1556). It also appropriated $5 million to reimburse States for incarcerated Mariel Cubans (98 Stat. 1558).

5. *P.L. 98-473,* the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), contained an amendment to 18 U.S.C. 3142(d) relating to the detention of certain aliens (98 Stat. 1978); and required cooperation in halting illegal emigration as a condition for assistance to Haiti (98 Stat. 1903).

6. *Private Law 98-53* (October 30, 1984) permitted immigrants employed by the American University of Beirut to return to the United States upon completion of such employment.

C. *Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities*

1. *P.L. 98-21,* the Social Security Amendments of 1983 (April 20, 1983; 97 Stat. 65), restricted the eligibility of certain nonresident aliens seeking security benefits as dependents or survivors of insured workers (97 Stat. 134); made half of social security benefits received by nonresident aliens taxable (97 Stat. 82); made nonresident aliens ineligible for a tax credit for the elderly and the permanently and totally dis-

abled (97 Stat. 87); and required the printing of social security cards on counterfeit-resistant banknote paper (97 Stat. 137).

2. *P.L. 98-116*, the Military Construction Appropriations Act, 1984 (October 11, 1983; 97 Stat. 795), prohibited the use of funds for illegal aliens (97 Stat. 799).

3. *P.L. 98-135*, the Federal Supplemental Compensation Amendments of 1983 (October 24, 1983; 97 Stat. 857), amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1986 the period during which employers are not required to pay Federal unemployment tax on the wages of temporary alien farmworkers admitted under sections 101(a)(15)(H) and 214(c) of the INA (97 Stat. 860).

4. *P.L. 98-151*, the Further Continuing Appropriations Resolution, 1984 (November 14, 1983; 97 Stat. 964), appropriated $30 million for the education of "immigrant" children, including undocumented aliens (97 Stat. 973); and continued in effect the Government-wide ban against the employment of noncitizens with specified exceptions (97 Stat. 982).

5. *P.L. 98-166*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1984 (November 28, 1983; 97 Stat. 1071), prohibited the use of Legal Service Corporation funds during FY 1984 for most aliens not admitted for lawful permanent residence (97 Stat. 1090).

6. *P.L. 98-181*, the Supplemental Appropriations Act, 1984 (November 30, 1983; 97 Stat. 1153), included a 1-year suspension of section 214 of the Housing and Community Development Act of 1980 prohibiting financial assistance to nonimmigrants or undocumented aliens (97 Stat. 1239).

7. *P.L. 98-369*, the Deficit Reduction Act of 1984 (July 18, 1984; 98 Stat. 494), amended the Internal Revenue Code to include a statutory definition of resident and nonresident aliens (98 Stat. 672).

8. *P.L. 98-411*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1985 (August 30, 1984; 98 Stat. 1545), prohibited the use of Legal Services Corporation funds during FY 1985 for most aliens not admitted for lawful permanent residence (98 Stat. 1563).

9. *P.L. 98-473*, the Continuing Appropriations Resolution, 1985 (October 12, 1984; 98 Stat. 1837), authorized and appropriated funds for refugee and Cuban/Haitian assistance and for emergency immigrant education, continued the Government-wide ban against employment of noncitizens with specified exceptions (98 Stat. 1963); and continued the ban against the use of military construction funds for illegal aliens (98 Stat. 1881).

10. *P.L. 98-511*, the Education Amendments of 1984 (October 19, 1984; 98 Stat. 2366), included in title VI, the "Emergency Immigrant Education Act of 1984", a 5 year authorization, 1985-1989, of assistance for local education agencies for alien children enrolled in elementary or secondary schools (98 Stat. 2401).

IV. *99th CONGRESS, 1985-1986*

A. *Legislation Amending the INA*

1. *P.L. 99-169*, the Intelligence Authorization Act (December 4, 1985; 99 Stat. 1002), amended section 316 of the INA to facilitate naturalization of certain foreign intelligence sources (99 Stat. 1007).

2. *P.L. 99-396* (August 27, 1986; 100 Stat. 837) amended section 212(1) of the INA relating to a waiver of the nonimmigrant visa requirement for Guam (100 Stat. 842); and sections 308 and 341 of the INA relating to U.S. non-citizen national status (100 Stat. 842, 843).

3. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986), amended section 286 of the INA to require immigration inspection fees.

4. *P.L. 99-505* (October 21, 1986), amended section 101(A)(15)(D) of the INA to permit alien crewmen on U.S.-based fishing vessels to stop temporarily at ports in Guam.

5. *P.L. 99-570*, the Anti-Drug Abuse Act of 1986 (October 27, 1986) amended sections 212(a)(23) and 241(a)(11) of the INA to broaden the excludability and deportability of alien drug offenders; and section 287 of the INA relating to INS custody of illegal alien drug offenders.

6. *P.L. 99-603*, the Immigration Reform and Control Act of 1986 (November 6, 1986), amended the INA to provide for employer sanctions, legalization, and agricultural worker programs, among other things.

7. *P.L. 99-605*, the Refugee Assistance Extension Act of 1986 (November 6, 1986), amended title IV of the INA to authorize appropriations for refugee assistance through FY 1988, and to amend the terms under which it is provided.

8. *P.L. 99-639*, the Immigration Marriage Fraud Amendments of 1986 (November 10, 1986), consisted of a series of amendments to the INA intended to deter immigration-related marriage fraud.

9. *P.L. 99-653*, the Immigration and Nationality Act Amendments of 1986 (November 14, 1986), consisted of a series of amendments to the INA popularly referred to as the State Department consular efficiency amendments.

B. *Legislation Affecting the INA and INS Operations*

1. *P.L. 99-180*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 (December 13, 1985; 99 Stat. 1136), appropriated $593,800,000 for FY 1986 (99 Stat. 1144). Additionally, it appropriated $5 million to reimburse State for incarcerated Cubans (99 Stat. 1146), and $7.1 million for a facility to incarcerate illegal alien felons (99 Stat. 1145).

2. *P.L. 99-190*, the Further Continuing Appropriations Resolution, 1986 (December 19, 1985; 99 Stat. 1185), authorized and appropriated funds for refugee and Cuban/Haitian assistance (99 Stat. 1315).

3. *P.L. 99-328* (May 28, 1986; 100 Stat. 505) allowed qualified persons representing all of the States to be naturalized on Ellis Island on July 3 or 4, 1986.

4. *P.L. 99-353* (July 2, 1986; 100 Stat. 755) designated July 4, 1986 as "National Immigrants Day".

5. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986) appropriated $593,000,000 for INS, appropriated $5 million to reimburse States for incarcerated Cubans, and authorized and appropriated funds for refugee and Cuban/Haitian assistance.

6. *P.L. 99-570*, the Anti-Drug Abuse Act of 1986 (October 27, 1986), required INS to establish a four-city pilot program to improve INS and police computer capabilities to respond to drug-related inquiries (section 1751); required a comprehensive information system to facilitate visa denial to drug traffickers (section 2011); and required Defense Department cooperation with INS (sections 1601 and 3057).

7. *P.L. 99-603*, the Immigration Reform and Control Act of 1986 (November 6, 1986) includes a number of provisions which either amend laws other than the INA (e.g., requirements for verification of immigration status for aliens applying for certain benefits), or are freestanding (e.g., section 204, State legalization impact-assistance grants).

8. *H. Res. 314* (November 12, 1985), expressed the sense of the House that the President should investigate the Miroslav Medvid case to prevent a similar mishandling of a political asylum case.

9. *H. Res. 409* (May 20, 1986) expressed the sense of the House that the Attorney General should investigate Kurt Waldheim's World War II activities to determine whether he should be denied admission to the United States.

10. *S. Con. Res. 143* expresssed the sense of the Congress on the resumption of the U.N. High Commissioner for Refugees Orderly Departure Program for Vietnam.

11. *S. Res. 185* (July 10, 1985) expressed the sense of the Senate that the Cuban Government was thwarting Cubans' human rights by suspending the U.S.-Cuban immigration agreement in retaliation for U.S. broadcasting to Cuba.

12. *S. Res. 353* (March 13, 1986) expressed the sense of the Senate that the Commission on Security and Cooperation in Europe should investigate the Medvid defection attempt.

C. *Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities*

1. *P.L. 99-173*, the Military Construction Appropriations Act, 1986 (December 10, 1985; 99 Stat. 1024), continued the ban against the use of funds for illegal aliens (99 Stat. 1028).

2. *P.L. 99-180*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1986 (December 13, 1985; 99 Stat. 1136), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (99 Stat. 1163).

3. *P.L. 99-190*, the Continuing Appropriations Resolution, 1986 (December 19, 1985; 99 Stat. 1185) continued the Government-wide ban against employment of noncitizens with specified exceptions (99 Stat. 1291).

4. *P.L. 99-272*, the Consolidated Omnibus Budget Reconciliation Act of 1985 (April 7, 1986; 100 Stat. 82), amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1988 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien farmworkers admitted under sections 101(a)(15) and 214(c) of the INA (100 Stat. 327).

5. *P.L. 99-498*, the Higher Education Amendments of 1986 (October 17, 1986), limited eligibility for Federal student aid programs to aliens who are or are intending to become permanent resident aliens, and required a study of the denial of student aid to certain noncitizens.

6. *P.L. 99-500*, the Continuing Appropriations Resolution, 1987 (October 18, 1986), continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence, continued the ban against the use of military construction funds for illegal aliens, continued the Government-wide ban against employment of non-citizens with specified exceptions, and prohibited implementation of HUD regulations prohibiting unlawful aliens receiving housing assistance.

7. *P.L. 99-509*, the Omnibus Budget Reconciliation Act of 1986 (October 21, 1986), amended section 1903 of the Social Security Act to restrict Medicaid eligibility to aliens lawfully admitted for permanent residence or permanently residing in the United States under color of law, except in the case of otherwise qualified aliens who have an emergency medical condition (section (9406).

8. *P.L. 99-514*, the Tax Reform Act of 1986 (October 22, 1986), added a new section 6039E to the Internal Revenue Code requiring aliens applying for permanent resident status to provide certain information, including whether they are required to file a tax return for the 3 most recent taxable years (section 1234).

9. *P.L. 99-595* (October 31, 1986) amended section 3306(c)(1) of the Internal Revenue Code to extend until January 1, 1993 the period during which employers are not required to pay Federal unemployment tax on wages of temporary alien agricultural workers admitted under sections 101(a)(15)(H) and 214(c) of the INA.

I. *100th CONGRESS, 1987–1988*

A. *Legislation Amending the INA OR IRCA*

1. *P.L. 100-71*, the Supplemental Appropriations Act, FY87 (July 11, 1987; 101 Stat. 391) amended section 286(h)(1)(A) of the INA to permit INS travel fee funds to remain available until expended (101 Stat. 394).

2. *P.L. 100-202*, the Further Continuing Appropriations Act, FY88 (Dec. 22, 1987; 101 Stat. 1329), amended section 210(d) of the INA as amended by IRCA, relating to special agricultural worker applications (101 Stat. 1329-18).

3. *P.L. 100-203*, the Omnibus Budget Reconciliation Act of 1987 (Dec. 22, 1987; 101 Stat. 1330) made a technical correction to section 201(b)(2)(B) of IRCA (101 Stat. 1330-321).

4. *P.L. 100-204*, the Foreign Relations Authorization Act, FY88-89 (Dec. 22, 1987; 101 Stat. 1331), amended section 212(a)(23) of the INA relating to the exclusion of drug law violators (101 Stat. 1399).

5. *P.L. 100-205*, the United States-Canada Free-Trade Agreement Implementation Act of 1988 (Sept. 28, 1988; 102 Stat. 1851), amended section 214 of the INA concerning entry as nonimmigrants of Canadian citizen professionals (102 Stat. 1877).

6. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89 (Oct. 1, 1988; 102 Stat. 2186), amended sections 286 and 344 of the INA to create revolving "Immigration Examinations Fee Account" (102 Stat. 2203); and amended section 101(b)(2) of the INA, relating to the adoption of illegitimate children of American fathers, to expire October 1, 1989 (102 Stat. 2203).

7. *P.L. 100-525*, the Immigration Technical Corrections Act of 1988 (Oct. 24, 1988), consisted of miscellaneous amendments to the INA and IRCA, and other immigration-related provisions.

8. *P.L. 100-658*, the Immigration Amendments of 1988 (Nov. 15, 1988), amended section 314 of IRCA (NP-5 program), which made more visas available to countries disadvantaged by the repeal of the national origins quota system, by extending it to FY89 and FY90 and increasing the annual number of visas available from 5,000 to 15,000.

9. *P.L. 100-690*, the Anti-Drug Abuse Act of 1988 (Nov. 18, 1988), amended the INA in Title VII, Subtitle J—Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies (sections 7341-7350).

B. *Legislation Affecting the INA, INS Operations, or Refugees*

1. *P.L. 100-71*, the Supplemental Appropriations Act, FY87, included a FY87 appropriation for INS of $137,216,000 (101 Stat. 393 and 472); struck INS preinspection limitation of section 208(a) of P.L. 99-500 and P.L. 99-591 (101 Stat. 472); and required the President to add AIDS virus infection (HIV) to dangerous contagious diseases for the purposes of section 212(a)(6) of the INA (101 Stat. 475).

2. *P.L. 100-202*, the Further Continuing Appropriations Act, FY88, included FY88 appropriations of $741,114,000 for INS within the Justice Department (101 Stat. 1329-12); $346,933,000 for the Office of Refugee Resettlement within HHS (101 Stat. 1329-271); and $870,000 for the Commission for the Study of International Migration

and Cooperative Economic Development created by IRCA (101 Stat. 1329-31). Included provisions relating to Amerasian immigration (101 Stat. 1329-183), and prohibiting the implementation of proposed INS H-1 regulations (101 Stat. 1329-17); as well as provisions similar to those in P.L. 100-204 relating to Cuban political prisoners (101 Stat. 1329-39); Indochinese refugee resettlement (101 Stat. 1329-40), and legalization of status of certain aliens previously granted extended voluntary departure (EVD) (101 Stat. 1329-43).

3. *P.L. 100-204*, the Foreign Relations Authorization Act, FY88-FY89, included the Moynihan-Frank amendment, a temporary prohibition against the exclusion or deportation of aliens on certain political and ideological grounds (101 Stat. 1399); as well as provisions relating to the legalization of status of certain aliens previously granted EVD (101 Stat. 1400), Cuban political prisoners (101 Stat. 1401), and Indochinese resettlement (101 Stat. 1402). Also authorizedds for migration and refugee assistance for FY88-89 (101 Stat. 1337); required study and report concerning the status of individuals with diplomatic immunity in the United States (101 Stat. 1345); and required report on visa information system on drug traffickers (101 Stat. 1397).

4. *P.L. 100-239*, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987 (Jan. 11, 1988; 101 Stat. 1778), added a new section 8704 to title 46, U.S. Code deeming certain individuals employed on fishing vessels as employed in the United States for the purposes of the employer sanctions provisions of section 274A of the INA (101 Stat. 1781).

5. *P.L. 100-242*, the Housing and Community Development Act of 1987 (Feb. 5, 1988; 101 Stat. 1815), amended section 214 of the Housing and Community Development Act of 1980 to revise SAVE verification and enforcement procedures added by section 121(a)(2) of IRCA, and the provision for reimbursement added by section 121(b)(6) of IRCA (101 Stat. 1861).

6. *P.L. 100-393*, the Dire Emergency Supplemental Appropriations Act, FY88 (Aug. 14, 1988; 102 Stat. 969), included an appropriation of $24 million for the U.S. Emergency Migration and Refugee Assistance Fund authorized by section 2(c) of the Migration and Refugee Assistance Act of 1962, of which not less than $6 million was to be made available for Soviet and other Eastern European refugees (102 Stat. 973).

7. *P.L. 100-435*, the Hunger Prevention Act of 1988 (Sept. 19, 1988), made a technical redesignation of the provision of the Food Stamp Act authorizing appropriations for administration of SAVE program, as added by section 121(b)(5) of IRCA (101 Stat. 1662).

8. *P.L. 100-436*, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, FY89 (Sept. 20, 1988; 102 Stat. 1680), included an appropriation of $382,356,000 for HHS's Office of Refugee Resettlement (ORR) (102 Stat. 1696, 1716).

9. *P.L. 100-449*, the United States-Canada Free-Trade Agreement Implementation Act of 1988, provided for reciprocal treatment of Canadian citizens as nonimmigrant treaty traders under section 101(a)(15)(E) of the INA (102 Stat. 1876).

10. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89, included an appropriation for INS of $800 million plus any unused user fees from the immigration legalization program (102 Stat. 2196); and appropriations of $500,000 for the Commission on Agricultural Workers (102 Stat. 2214), and $1,290,000 for the Commission for the Study of International Migration and Cooperative Economic Development (102 Stat. 2216), both created by IRCA. Continued the ban against adoption of H-1 regulations previously proposed by INS (102 Stat. 2203).

11. *P.L. 100-461*, the Foreign Operations, Export Financing, and Related Programs Appropriations Act FY89, in section 555 amended section 901 of P.L. 100-204 (the Moynihan-Frank amendment) to extend the temporary prohibition against the exclusion or deportation of aliens on certain political or ideological grounds to 1991, but only for nonimmigrants. Also prohibited the USIA from using any funds in FY88-89 to end its J-1 au pair program, and required a GAO study of the cultural exchange program under section 101(a)(15)(J) of the INA.

12. *P.L. 100-504*, the Inspector General Act Amendments of 1988 (title I) (Oct. 18, 1988; 102 Stat. 2515), established new Office of Inspector General in certain Departments, including Justice (102 Stat. 2515), and transferred the functions of three offices of INS to Justice's Inspector General's office (102 Stat. 2516).

13. *P.L. 100-658*, the Immigration Amendments of 1988 (Nov. 15, 1988), made 10,000 immigrant visas available each year for FY90-91 to underrepresented countries in the immigrant visa allocation in FY88; and extended H-1 nonimmigrant status for certain registered nurses through Dec. 1, 1989.

14. *P.L. 100-690*, the Anti-Drug Abuse Act of 1988 (Nov. 18. 1988), required denial of passports to certain convicted drug traffickers (sec. 4603); required development of

a machine-readable document border security program (sec. 4604); authorized appropriations for specified INS personnel enhancement (sec. 6151); provided for INS foreign language training (sec. 6165); and included a supplemental FY89 appropriation of $26.2 million for INS (title X).

15. *H. Con Res. 303*, commending humanitarian treatment of Southeast Asian refugees and urging further measures to ensure humanitarian treatment of refugees (passed House Oct. 5, 1988, Senate Oct. 12, 1988).

C. *Legislation Regulating Alien Participation in Federal Assistance Programs and Other Federal Activities*

1. *P.L. 100-202*, the Further Continuing Appropriations Act, continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (101 Stat. 1329-33); continued the ban against the use of military construction funds for illegal aliens (101 Stat.liation Act, added section 1611(c)(5) to the Social Security Act, to disregard, in the computation of income for the purposes of Supplemental Security Income (SSI), payments under section 412(e) of the INA (relating to assistance for refugees) and payments under section 501(a) of P.L. 96-422 (relating to assistance for Cuban and Haitian entrants) (101 Stat. 1330-301).

3. *P.L. 100-239*, the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987, set forth requirements relating to the manning by aliens of certain fishing vessels (101 Stat. 1780).

4. *P.L. 100-242*, the Housing and Community Development Act of 1987, in section 164 (entitled Modification of restriction on use of assisted housing by aliens) amended section 214 of the Housing and Community Development Act of 1980 to add aliens legalized either temporarily or permanently under section 245A of the INA to those eligible for housing assistance; and to add a new subsection (c), modifying restrictions (101 Stat. 1860).

5. *P.L. 100-297*, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Apr. 28, 1988; 102 Stat. 130), in section 1001 rewrote the Elementary and Secondary Education Act of 1965, including part D of title IV, sections 4401-4410 ("Emergency Immigrant Education Act of 1984"), dealing with Federal assistance for immigrant education (102 Stat. 242).

6. *P.L. 100-442*, the Treasury, Postal Service and General Government Appropriations Act, FY89 (Sept. 22, 1988; 102 Stat. 1721), continued the2 Stat. 1829), continued the ban against the use of military construction funds for illegal aliens (102 Stat. 1833).

8. *P.L. 100-459*, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, FY89, continued the prohibition against the use of Legal Services Corporation funds for most aliens not admitted for permanent residence (102 Stat. 2225).

9. *P.L. 100-647*, the Technical and Miscellaneous Revenue Act of 1988 (Nov. 10, 1988), amended section 202(n) of the Social Security Act to deny Social Security benefits to aliens deported under section 241(a)(19) of the INA (relating to Nazi persecution) (section 8004).

D. TABLES OF TRANSMISSION REQUIREMENTS OVER TIME FOR CITIZENSHIP FOR CERTAIN INDIVIDUALS BORN ABROAD

(Source: Bureau of Consular Affairs, Department of State; as of April 5, 1989; NOTE.—These tables are intended for use only as a useful generalized reference guide, and *not* to make determinations or to be cited in any case.)

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
Before Noon EST 5/24/34	Only U.S. citizen father could transmit. Father resided in U.S. before child's birth.	Sec. 1993, Revised Statutes (RS) 7 FAM 1135	None	
Noon EST 5/24/34 and prior to 1/13/41	Either U.S. citizen father or mother could transmit. U.S. citizen parent resided in U.S. before child's birth.	Sec. 1993, RS as amended in 1934 7 FAM 1135.6-2	(1) 5 years residence between ages 13-21 if begun before 12/24/52; or (2) 2 years continuous physical presence between ages 14 and 28*; or (3) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (4) None if parent employed certain occupation*** (5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Sec. 201(g) & (h) NA; 7 FAM 1134.5-1 (2) Former Sec. 301(b), (c) INA; 7 FAM 1133.5-3, 5-4 (3) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (4) Sec. 201(g) NA; 7 FAM 1134.5 (5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT—Continued

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52	Citizen parent resided in U.S. or possession 10 years prior to child's birth, five of which after the age of 16	201(g) NA; 7 FAM 1134.1, 1134.2	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if parent employed in certain occupation*** (4) None if child born on or after 10/10/52 (5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Former Sec. 301(b), (c) INA; 7 FAM 1134.5. (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) 201(g) NA; 7 FAM 1134.5-2. (4) P.L. 95-432; 7 FAM 1133.5-14 (5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10
	Citizen parent in U.S. Military 12/7/41-12/31/46 and resided in U.S. or possession 10 years prior to child's birth, five of which after age 12	201(i) NA; 7 FAM 1134.1, 1134.3a, 1134e.	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if child born on or after 10/10/52 (4) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Former Sec. 301(b) INA; 7 FAM 1134.3(e), 1133.5 (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) P.L. 95-432; 7 FAM 1134.1,2 (4) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10

BIRTH ABROAD TO U.S. CITIZEN PARENT AND ALIEN PARENT—Continued

Date of Birth	Transmission Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52 —Continued	Citizen parent in U.S. Military 1/1/47–12/24/52 and physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14, and who did not qualify under either provision above	Sec. 301(a)(7), now 301(g) INA; 7 FAM 1134.3f	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if child born on or after 10/10/52 (4) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Former Sec. 301(b) INA; 7 FAM 1133.5 (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) P.L. 95-432; 7 FAM 1133.5-14 (4) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10
12/24/52 and prior to 11/14/86	Citizen parent physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included.	Sec. 301(a)(7), now 301(g) INA; 7 FAM 1133.2-1, 1133.3-1c	None	
On or after 11/14/86	Citizen parent physically present in U.S. or possession 5 years prior to child's birth, two of which after age 14	301(g) INA; P.L. 99-653, P.L. 100-525	None	

*Absences of less than 60 days in aggregate during 2 year period does not break continuity.

**Absences of less than one year in aggregate during 5 year period do not break continuity.

***U.S. Government, American educational, scientific, philanthropic, religious, commercial, or financial organization or an International Agency in which the U.S. takes part.

NOTE: Residence or physical presence of parent must take place **before** child's birth.

BIRTH ABROAD TO TWO U.S. CITIZEN PARENTS

Date of Birth	Transmission Requirements (Parents' residence)	Applicable Laws	Reference
Before noon EST 5/24/34	Father resided in the U.S.	Sec. 1993, Revised Statutes (RS)	7 FAM 1135.1, 1135.2
Noon EST 5/24/34 and prior to 1/13/41	One parent resided in the U.S.	Sec. 1993, RS as amended by Act of 5/24/34	7 FAM 1135.6-2
1/13/41 and prior to 12/24/52	One parent resided in the U.S. or possession	Sec. 201(c) NA	7 FAM 1134.1(c), 1134.2-1c, 1134.2-2
On or after 12/24/52	One parent resided in the U.S. or possession	Sec. 301(a)(3), now 301(c) INA	7 FAM 1133.2-1c, 1133.3-1a

Notes: (1) In all cases residence must take place **prior** to the child's birth.
(2) The law does not define how long residence must be.
(3) Children born to two U.S. citizen parents never had retention requirements.

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN MOTHER

Date of Birth	Transmission Requirements (Parents' residence)	Applicable Laws	Reference
Before noon EST 5/24/34	Mother resided in the U.S. or possession prior to child's birth; child not legitimated by alien father before 1/13/41	Sec. 205, Paragraph 2, NA	7 FAM 1135.3-2, 1134.4-4
Noon EST 5/24/34 and prior to 1/13/41	Mother resided in U.S. or possession prior to child's birth	Sec. 1993, RS as amended by Act of 5/24/34; Sec. 205, Para. 2, NA	7 FAM 1135.7-2, 1134.4-4
1/13/41 and prior to 12/24/52	Mother resided in U.S. or possession prior to child's birth	Sec. 205, Paragraph 2, NA	7 FAM 1134.4-4
On or after 12/24/52	Mother physically present in U.S. or possession continuously 12 months prior to child's birth	Sec. 309(c), INA	7 FAM 1133.4-1, 1133.4-3d

Note: Children born out of wedlock to a U.S. citizen mother never had retention requirements.

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
Before Noon EST 5/24/34	Legitimated under law of father's U.S. or foreign domicile. Father resided in U.S. before child's birth.	Sec. 1993, Revised Statutes (RS); 7 FAM 1135.3-1	None	
Noon EST 5/24/34 and prior to 1/13/41	Legitimated under law of father's U.S. or foreign domicile. Father resided in U.S. before child's birth.	Sec. 1993, RS as amended in 1934; 7 FAM 1135.7-1	(1) 5 years residence between ages 13-21 if begun before 12/24/52; or (2) 2 years continuous physical presence between ages 14 and 28*; or (3) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (4) None if parent employed certain occupation*** (5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Sec. 201(g) & (h) NA; 7 FAM 1134.5-1 (2) Former Sec. 301(b), (c) INA; 7 FAM 1133.5-3, 1133.5-4 (3) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (4) Sec. 201(g) NA; 7 FAM 1134.5-2 (5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER—Continued

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52	(1) Father resided in U.S. or possession 10 years prior to child's birth, five of which after the age of 16; and (2) Paternity established during minority by legitimation or adjudication of competent court before 12/24/52.	201(g), 205 NA; 7 FAM 1134.1, 1134.2, 1134.4-1, 1134.4.2	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if parent employed in certain occupation***. (4) None if child born on or after 10/10/52 (5) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Former Sec. 301(b), (c) INA; 7 FAM 1134.5 (2) Former Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) 201(g) NA; 7 FAM 1134.5-2 (4) P.L. 95-432; 7 FAM 1133.5-14 (5) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10
	(1) Father in U.S. Military 12/7/41-12/31/46 and requirements of section 201(g) not met; and (2) Father resided in U.S. or possession 10 years prior to child's birth, five of which after age 12. (3) Legitimation not necessary.	201(i) NA; 7 FAM 1134.1, 1134.4-2c, 1134.3	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if child born on or after 10/10/52 (4) None if alien parent naturalized and child began to reside permanently in U.S. while under age 18	(1) Former Sec. 301(b), (c) INA; 7 FAM 1134.3, 1133.5 (2) Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) P.L. 95-432; 7 FAM 1133.1,2 (4) Former Sec. 301(b) INA; 7 FAM 1133.5-6, 1133.5-10

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER—Continued

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
1/13/41 and prior to 12/24/52 —Continued	(1) Father physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14; and (2) Paternity established during minority by legitimation and previous requirements not met.	Sec. 301(a)(7), now 301(g) INA, 309(b) INA; 7 FAM 1134.4-3	(1) 2 years continuous physical presence between ages 14 and 28*; or (2) 5 years continuous physical presence between ages 14 and 28 if begun before 10/27/72**. (3) None if child born on or after 10/10/52	(1) Former Sec. 301(b) INA; 7 FAM 1133.5 (2) Sec. 301(b), (d) INA; 7 FAM 1133.5-1a, 1133.5-2, 1133.5-8 (3) P.L. 95-432; 7 FAM 1133.5-14
12/24/52 through 11/14/68	(1) Father physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and (2) Paternity established under age 21 by legitimation.	301(a)(7), 309(a) INA; 7 FAM 1133.2-1, 1133.3-1c, 1133.3-4, 1133.4	None	
After 11/14/68 and through 11/14/71	(1) Father physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and (2)(A) Paternity established under age 21 by legitimation, (B) paternity established under age 18 by father's written acknowledgment and agreement to support, or (C) paternity established under age 18 by court adjudication and father's written agreement to support.	301(a)(7), 309(a) INA; 7 FAM 1133.2-1, 1133.3-1c, 1133.3-4, 1133.4; P.L. 99-653, P.L. 100-525	None	

CHILD BORN OUT OF WEDLOCK TO U.S. CITIZEN FATHER AND ALIEN MOTHER—Continued

Date of Birth	Transmission and Legal Relationship Requirements	Reference	Retention Requirements	Reference
After 11/14/71 and prior to 11/14/86	(1) Father physically present in U.S. or possession 10 years prior to child's birth, five of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and (2) Father's written agreement to support and paternity established under age 18 either (A) by father's written acknowledgment, (B) by court adjudication, or (C) by legitimation.	301(a)(7), 301(g) INA; 7 FAM 1133.2-1, 1133.3-1c, 1133.3-4; P.L. 99-653, P.L. 100-525	None	
On or after 11/14/86	(1) Father physically present in U.S. or possession 5 years prior to child's birth, two of which after age 14. Honorable U.S. military service, employment with U.S. Government or intergovernmental international organization, or as dependent unmarried son or daughter and member of the household of a parent in such service or employment, may be included; and (2) Father's written agreement to support and paternity established under age 18 either (A) by father's written acknowledgment, (B) by court adjudication, or (C) by legitimation.	301(g), 309(a) INA; P.L. 99-653	None	

*Absences of less than 60 days in aggregate during 2 year period does not break continuity.

**Absences of less than one year in aggregate during 5 year period do not break continuity.

***U.S. Government, American educational, scientific, philanthropic, religious, commercial, or financial organization or an International Agency in which the U.S. takes part.

NOTE: Residence or physical presence of parent must take place **before** child's birth.

E. Table of Applicability of Grounds of Visa Ineligibility and Waivers

(Source: Foreign Service Institute, Department of State; as of March 1, 1989; Note.—This table is intended for use only as a useful generalized reference guide, and *not* to make determinations or to be cited in any case.)

(NOTE: All references are to sections in the Immigration and Nationality Act. "NIV" refers to nonimmigrant visas, and "IV" refers to immigrant visas.)

INA Provision	Ground for Visa Ineligibility* (Tense)	Waiver Availability
212(a)(1)	Mentally retarded (present)	NIV: 212(d)(3)(A). IV: 212(g) with relationship; 212(c) for certain returning residents (viz., "aliens..who temporarily proceeded abroad voluntarily and not under an order of deportation...").
212(a)(2)	Insane (present)	NIV: 212(d)(3)(A). IV: No waiver, except 212(c) (certain returning residents).
212(a)(3)	One or more attacks of insanity (past)	NIV: 212(d)(3)(A). IV: 212(g) with relationship and if free of illness sufficient time to show recovery; 212(c) (certain returning residents).
212(a)(4)	Psychopathic personality, sexual deviation (present)	NIV: 212(d)(3)(A). IV: No waiver, except 212(c) (certain returning residents).
212(a)(5)	Drug addicts, alcoholics (present)	NIV: 212(d)(3)(A), may be overcome by rehabilitation. IV: No waiver, but may be overcome by reform (medical report), and 212(c) (certain returning residents).
212(a)(6)	Dangerous, contagious disease (present)	NIV: 212(d)(3)(A), may be overcome by cure. IV: 212(g) with relationship and 212(c) (certain returning residents).
212(a)(7)	Physical defect, unable to earn living (present)	NIV: 212(d)(3)(A), 213, 221(g) first proviso. IV: May be overcome, not ineligible if does not need to earn own living; 221(g); and 212(c) (certain returning residents).
212(a)(8)	Paupers, beggars, vagrants (present)	NIV: 212(d)(3)(A), may be overcome by reform. IV: Overcome by reform and 212(c) (certain returning residents).
212(a)(9)	Crime involving moral turpitude (past)	NIV: 212(d)(3)(A). IV: 212(h) with relationship and 212(c) (certain returning residents).
212(a)(10)	Two or more crimes (past)	NIV: 212(d)(3)(A). IV: 212(h) with relationship and 212(c) (certain returning residents).
212(a)(11)	Polygamists (present)	NIV: Not applicable. IV: No waiver except 212(c) (certain returning residents).

INA Provision	Ground for Visa Ineligibility* (Tense)	Waiver Availability
212(a)(12)	Prostitution (past/present)	NIV: 212(d)(3)(A). IV: 212(h) with relationship and 212(c) (certain returning residents).
212(a)(13)	To engage in immoral sexual acts (present)	NIV: 212(d)(3)(A). IV: No waiver except 212(c) (certain returning residents).
212(a)(14)	Seeking employment (present) (applicable only to 3rd, 6th & non preference immigrants)	NIV: No applicable. IV: Overcome with labor certification.
212(a)(15)	Public charge (present)	NIV: 212(d)(3)(A), 213, 221(g) first proviso. IV: Overcome or first proviso of 221(g) and 212(c) (certain returning residents).
212(a)(16)	Excluded and deported (past) (ineligible for 1 year)	NIV: 212(d)(3)(A) or INS permission to reapply. IV: INS permission to reapply.
212(a)(17)	Arrested and deported (past) (ineligible for 5 years).	NIV: 212(d)(3)(A). IV: INS permission to reapply (Form I–212).
212(a)(18)	Stowaways (present)	
212(a)(19)	Fraud visa/documentation (past/present). Enter by fraud (past/present)	NIV: 212(d)(3)(A). IV: 212(i) with relationship and 212(c) (certain returning residents)
212(a)(20)	No entry documentation (at port of entry only)	
212(a)(21)	Visa not in compliance with numerical limitation (at port of entry only)	
212(a)(22)	Ineligible to citizenship (present)	NIV: Not applicable. IV: No waiver.
212(a)(22) (cont'd)	Draft evaders (past); applicable to NIV only if alien was legal permanent resident alien (LPRA) or US citizen when departed	NIV: 212(d)(3)(A), if applicable. IV: No waiver except 212(c) (certain returning residents). NOTE: Vietnam era draft evaders may benefit from Presidential pardon; deserters may not.
212(a)(23)	Narcotic possession, drug trafficker (past/present)	NIV: 212(d)(3)(A). IV: No waiver, except 212(h) for single offense, possession 30 grams or less of marijuana and 212(c) (certain returning residents).
[212(a)(24)]	[Repealed]	
212(a)(25)	Illiterates (present), but not applicable to IV if alien has certain relationship or if applying to avoid religious persecution	NIV: Not applicable. IV: 212(b) with relationship and 212(c) (certain returning residents).
212(a)(26)	Passport not valid 6 months beyond stay (present)	NIV: 212(d)(4). IV: Not applicable.
212(a)(27)	Endanger welfare, safety, security of US (present)	NIV: No waiver. IV: No waiver.
212(a)(28)	Anarchists; opposing organized government, totalitarians, members of community party, terrorists	NIV: 212(d)(3)(A), Sec. 901. IV: 212(a)(28)(I)(i) or (ii) exemptions, non-meaningful involuntary, defector status.
212(a)(29)	Espionage, sabotage, public disorder, subversive, overthrow of U.S. government (present)	NIV: No waiver. IV: No waiver.
212(a)(30)	Accompanying excludable, incapable alien (present) (applicable only at point of entry)	NIV: 212(d)(3)(A) or INS permission to reapply. IV: INS permission to reapply.
212(a)(31)	Aiding illegal entrant for gain (past)	NIV: 212(d)(3)(A). IV: No waiver, except 212(c) (certain returning residents).

INA Provision	Ground for Visa Ineligibility* (Tense)	Waiver Availability
212(a)(32)	Foreign medical graduates performing medical services (present) (applicable only to 3rd, 6th, and nonpreference aliens, see regulations)	NIV: Not applicable. IV: No waiver.
212(a)(33)	Nazi (past)	NIV: No waiver. IV: No waiver.
212(e)	Applicable only to certain former exchange visitors who have not completed or obtained a waiver of 2 year resident abroad requirement, and are applying for H, K, L, or Immigrant visas. No relief other than compliance	
101(a)(15) & 214(b)	Applied only to NIV and may be overcome	

*Grounds of visa ineligibility applies to both NIV and IV unless otherwise stated.

EXCEPTIONS TO §212(a) INELIGIBILITY FOR CERTAIN VISA CLASSES

Visa Class	Paragraphs in §212(a) Applicable	INA Authority
Returning Resident	(26) through (29), (32), and (33); for returning residents returning to an unrelinquished residence of ***seven consecutive years***	§212(c)
A-1	(27)	§102
A-2	(27)-(29)	§102
A-3	(1)-(27); (29)-(33)	§212(d)(2)
C-2	(27)-(29)	§102
C-3	(26), (27), & (29)	§212(d)(8)
G-1	(1)-(26); (28)-33)	§102
G-2, G-3, G-4	(27) & (29)	§102
G-5	(1)-(27); (29)-(33)	§212(d)(2)
NATO-1	(27)	Treaty
NATO-2, NATO-3, NATO-4, NATO-6	(27) & (29)	Treaty
Accredited officials' immediate families, attendants, servants, personal employees in immediate and continuous transit	(26), (27), & (29)	§212(d)(8)

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